

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 IRA HEASTON, : 19-CV-5569 (PKC)
4 Plaintiff, :
5 -against- :
6 BORRIS, INC., SALMIN BLAKE, : United States Courthouse
7 "JANE" BLAKE, THE CITY OF : Brooklyn, New York
8 NEW YORK, NYPD P.O. AND JANE :
9 DOE 1-2; :
10 Defendants. : Monday, October 5, 2020
11 : 1:00 p.m.
12 -X

13
14 TRANSCRIPT OF CIVIL CAUSE FOR EVIDENTIARY HEARING
15 BEFORE THE HONORABLE PAMELA K. CHEN
16 UNITED STATES DISTRICT JUDGE

17
18 A P P E A R A N C E S:

19 For the Plaintiff: GARNETT H. SULLIVAN, ESQ.
20 1080 Grand Avenue
21 Suite 200
22 South Hempstead, New York 11550

23 For the Defendants NEW YORK CITY LAW DEPARTMENT
24 The City of New ASSISTANT CORPORATE COUNSEL
25 York, NYPD P.O. 100 Church Street
 New York, New York 10007
 BY: RAJU SUNDARAN, ESQ.
 SOO-YOUNG SHIN, ESQ.

 For the Defendants SHIRYAK, BOWMAN, ANDERSON, GILL.
 R.K.H.L, Inc., GMA & KADOCHNIKOV, LLP
 Enterprises, and 80-02 Kew Gardens Road.
 Borris, Inc.: Suite 600
 Kew Gardens, New York 11415
 BY: ALEXANDER KADOCHNIKOV, ESQ.

1 A P P E A R A N C E S (Continued)
23 Court Reporter: DAVID R. ROY, RPR
4 225 Cadman Plaza East
5 Brooklyn, New York 11201
drroyofcr@gmail.com6 Proceedings recorded by Stenographic machine shorthand,
7 transcript produced by Computer-Assisted Transcription.8
9
10 P R O C E E D I N G S
11
12 --oo0oo--
13
14 (All participants appearing via videoconference.)
15 THE COURTRoom DEPUTY: Civil cause for a
16 evidentiary hearing, Docket 19-CV-5569, Heaston versus
17 Borris, Inc., et al.
18 Before asking the parties to state their
19 appearances, I would like to note the following: Persons
20 granted remote access to proceedings are reminded of the
21 general prohibition against photographing, recording, or
22 rebroadcasting of court proceedings. Violation of these
23 prohibitions may result in sanctions, including removal of
24 Court-issued media credentials, restrictive entry to future
25 hearings, denial of entry to future hearings, or any other

1 sanctions deemed necessary by the Court.

2 Would the parties please state their appearances
3 for the record, starting with the plaintiff.

4 MR. SULLIVAN: Thank you, Your Honor --

5 MR. HEASTON: Ira Heaston.

6 THE COURT: I'm sorry, Mr. Heaston, can you raise
7 your hand?

8 MR. HEASTON: (Indicates.)

9 THE COURT: Oh, I'm sorry. That went by a little
10 quickly for --

11 MR. HEASTON: Ira Heaston.

12 THE COURT: Oh, I see. Okay. I only see your
13 attorney, but you're saying --

14 MR. SULLIVAN: Unfortunately, Judge, we're using
15 the same device. We had some technical difficulty so we
16 have to share the same device.

17 THE COURT: Okay. So actually I want the lawyer
18 to state his name for the record.

19 MR. SULLIVAN: Garnett Sullivan appearing for the
20 Plaintiff Ira Heaston.

21 THE COURT: Okay.

22 And Mr. Heaston is present via the video there as
23 well?

24 MR. HEASTON: Yeah.

25 MR. SULLIVAN: That is correct, Judge.

1 THE COURT: Okay.

2 So, Mr. Heaston, I don't know how you have your
3 computer positioned, but I can only see the very top of your
4 head. It may be helpful if you position yourself so your
5 entire head is visible perhaps? It's not essential, but you
6 can work on that.

7 Okay. Let me hear from Defendants' Attorneys
8 next?

9 MR. SUNDARAN: Raju Sundaran for the defendants,
10 Your Honor.

11 THE COURT: Good afternoon.

12 MS. SHIN: Soo-Young Shin for the defendants.
13 Good afternoon.

14 THE COURT: Good afternoon.

15 MR. KADOCHNIKOV: Your Honor --

16 THE COURT: All right. Now, we are have some
17 other individuals present, at least on --

18 MR. KADOCHNIKOV: Good afternoon, Your Honor.
19 Alexander Kadocnikov for Defendant.

20 THE COURT: Okay.

21 And, David, did you get that appearance?

22 THE COURT REPORTER: Yes, Judge, I did.

23 THE COURT: All right.

24 THE COURT REPORTER: Thank you for asking,
25 Your Honor.

1 THE COURT: And you have the defendant with you;
2 is that correct?

3 MR. KADOCHNIKOV: Yes.

4 THE COURT: Okay. That's Mr. Borris; am I -- or
5 actually, who is it that you're representing, sir?

6 MR. KADOCHNIKOV: I represent corporate
7 defendants -- I represent the two corporate defendants,
8 Borris, Inc. and -- the other one -- R.K.H.L Group.

9 THE COURT: Okay. Thank you.

10 All right. And then lastly, we have two other
11 lawyers that appeared?

12 MR. PAWAR: Good afternoon, Your Honor. Vik Pawar
13 and Robert Blossner.

14 THE COURT: All right.

15 MR. BLOSSNER: I'm Mr. Blossner, Your Honor.

16 THE COURT: Okay. Mr. Pawar, I'm sorry, I didn't
17 recognize you. And Mr. Blossner. Okay. Perfect.

18 Now, I know the detective also appears to be on
19 the conference as well.

20 Are you Detective Portillo, sir?

21 (No audible response.)

22 THE COURT: Okay, you're on mute.

23 MR. PORTILLO: Yes. I'm raising my right hand.

24 THE COURT: Okay. Well, don't raise your right
25 hand yet, sir.

1 MR. PORTILLO: Oh, okay.

2 THE COURT: So you can go on mute again for a
3 moment.

4 Mr. Sundaran, you had mentioned you wanted to
5 address some preliminary matters, but bear in mind that we
6 have at least three potential witnesses on the conference
7 already. Do you want to wait and address these out of the
8 earshot of these individuals at some other time so that we
9 can get started, or is this going to affect the presentation
10 of evidence?

11 MR. SUNDARAN: This is to expedite the
12 presentation of evidence, Your Honor.

13 THE COURT: Okay. Go ahead.

14 MR. SUNDARAN: Well, for starters in terms of
15 exhibits, would Your Honor like Defendants to lay the
16 foundation for each individual exhibits, or can we deem some
17 of them admitted simply because they are a matter of public
18 record?

19 THE COURT: Yes, the latter. So let's expedite
20 that part of the process.

21 MR. SUNDARAN: All right. Then the next question,
22 Your Honor, is we just would like to let Your Honor know
23 that Ms. Kirkland will not be showing up today. She was
24 informed of the hearing. She submitted an affidavit in
25 support, but for the past couple of days, we have not been

1 able to get in contact with her, so we wanted to let
2 the Court know.

3 The last matter is --

4 THE COURT: Hang on, hang on, hang on. Hang on.

5 David, did you get that; that was Ms. Kirkland, I
6 think?

7 THE COURT REPORTER: Yes, Your Honor, I did.

8 Thank you.

9 THE COURT: Okay.

10 All right. Go ahead, Mr. Sundaran.

11 MR. SUNDARAN: The last question for Your Honor
12 is, after each witness's testimony, would the Court like the
13 witnesses to leave or to stay?

14 THE COURT: They can do either. More my concern
15 is they are not being present before they testify. So I am
16 going to, basically on my own, invoke the Rule on the
17 witnesses hereon. So this will affect the two attorneys who
18 have actually appeared, in which I appreciate.

19 So, Mr. Pawar and Blossner, I think that we will
20 ask you to -- Fida, tell me the best way in terms of
21 technology to ensure that they can come back. But for now I
22 would like to have Mr. Pawar and Mr. Blossner leave the
23 conference as if they were exiting the courtroom.

24 So, Fida, should they just disconnect and
25 then come back when --

1 THE COURTROOM DEPUTY: Yes, Judge, they will have
2 to disconnect and click on the link again to join us.

3 THE COURT: Okay.

4 All right. So why don't we do this: Since
5 Detective Portillo's testimony is estimated to last about a
6 half an hour, if I could have Mr. Pawar come back at 2:05.
7 So reconnect with us at 2:05.

8 And then Mr. Blossner, you should go into another
9 room, because I can see you are both in the same room. So
10 effectively leave the courtroom -- not be in the courtroom
11 during Mr. Pawar's testimony, and then come back at 2:20 or
12 exchange -- what we could do is Mr. Pawar, when you're done,
13 you could just let Mr. Blossner know so that he can come in.
14 All right?

15 MR. PAWAR: Judge, if I may? I think Mr. Sundaran
16 had listed Mr. Blossner first, and I believe Mr. Blossner's
17 testimony will be extremely limited.

18 THE COURT: Okay.

19 MR. PAWAR: So I would request if Mr. Blossner
20 could come back. And once he's done, I can come back, and
21 then we'll be -- we'll be in the same room.

22 THE COURT: That's perfectly fine. I'm working
23 off a list that lists -- a list that has a different order,
24 but that's fine.

25 MR. SUNDARAN: (Indicating.)

1 THE COURT: And I see Mr. Sundaran nodding his
2 head "yes."

3 So let's have Mr. Blossner come back in at 2:05 --
4 or actually, why don't you come back at 2:00 and then that
5 way we won't have any gap in time. And then Mr. Pawar is
6 going to let you know when you can come in. Okay?

7 MR. PAWAR: Right.

8 Judge, just one thing: The reason Mr. Blossner's
9 here is he's not very savvy with the computer. So at
10 2 o'clock I will come back in -- just come back in with him
11 to connect with Your Honor --

12 THE COURT: Okay.

13 MR. PAWAR: -- and then I will leave the room.

14 THE COURT: All right. That sounds fine.

15 MR. PAWAR: Okay. So --

16 THE COURT: Now, you folks can handle your own
17 safety precautions, but you should probably wear a mask
18 while you are standing around, not for nothing, but that's
19 entirely up to you.

20 MR. PAWAR: I've been through it already, Judge.

21 THE COURT: Okay. All right. That's fine.

22 All right. So let's have you folks --

23 MR. PAWAR: So 2 o'clock?

24 THE COURT: Yes, 2 o'clock. Thank you.

25 All right. Let's get right to it. Either

1 Ms. Shin or Mr. Sundaran, why don't you call your first
2 witness?

3 MR. SUNDARAN: Your Honor, at this time we would
4 like to give an opening statement, if that's okay with
5 the Court?

6 THE COURT: You know what? How long are you going
7 to be?

8 MR. SUNDARAN: Five minutes, Soo-Young?

9 THE COURT: All right.

10 MS. SHIN: Yes.

11 THE COURT: All right. Yes, go ahead. But don't
12 rush just because I said that, for our court reporter's
13 sake.

14 MS. SHIN: Thank you, Your Honor.

15 Your Honor, we would like to address the Court in
16 its evidentiary hearing to determine whether fraud was
17 perpetrated on the Court by Plaintiff and his former
18 attorney, Defendants will be calling witnesses and
19 introducing exhibits. Through testimony and documentary
20 evidence, Defendants will show this Court that there were
21 materially false statements which were put forth repeatedly,
22 in fact, by both Plaintiff and his former counsel, and that
23 the claims in this case were entirely without colorable
24 basis or merit and brought in bad faith for an improper
25 purpose. The testimony and evidence will show that the

1 behavior of both the plaintiff and plaintiff's former
2 counsel interfered with Your Honor's ability to impartially
3 adjudicate this matter and needlessly extended this
4 meritless lawsuit for the past year.

5 With respect to the sanctions against Plaintiff,
6 you will hear from witnesses today, among other things, that
7 the plaintiff was never a lawful tenant at the subject
8 premises, that he submitted falsified records to
9 Queens Civil Court in order to obtain an order to allow him
10 to be restored possession of this property, and that he
11 never properly noticed or served the rightful owners of the
12 property, so this all occurred without their knowledge. You
13 will further hear how it was impossible for the plaintiff to
14 have had a lease starting in January of 2019 at the subject
15 premises, because the building was not yet certified to be
16 occupied. And as you know that this plaintiff --

17 (Audio cuts out briefly.)

18 THE COURT: Hang on, hang on.

19 I think you said "certified to be occupied"; is
20 that right, Ms. Shin?

21 MS. SHIN: Yes.

22 THE COURT: You cut out.

23 Did, you get that David?

24 THE COURT REPORTER: Yes, Your Honor, I did.

25 Thank you.

1 THE COURT: All right.

2 Go ahead, Ms. Shin, after "certified to be
3 occupied."

4 MS. SHIN: Thank you, Your Honor.

5 -- and as you know, that this plaintiff presented
6 these same false statements to bring the instant action, and
7 in fact, attached these same documents to his
8 Second Amended Complaint, the operative complaint in his
9 federal lawsuit. You will hear that this plaintiff
10 burglarized the subject premises prior to unlawfully
11 obtaining the Queens Civil Court order and was arrested on
12 April 26, 2019 by Detective Ramon Portillo based on the
13 owner of property manager's complaint that Plaintiff did not
14 have permission to reside there.

15 Now, turning to the second issue of sanctions
16 against Mr. Pawar. You will hear, among other things, that
17 the property manager notified Mr. Pawar about the history of
18 Borris's purchase of the property, and that Borris, Inc.
19 never rented the subject premises to Plaintiff. Mr. Pawar
20 was even provided with documentary evidence approximately a
21 year ago, shortly after this lawsuit was filed, much of the
22 same documentary evidence which was included in our motion
23 and which will be presented today; and that despite being
24 presented with overwhelming evidence to the contrary,
25 Mr. Pawar persisted in pursuing this meritless lawsuit, and

1 even more --

2 (Audio cuts out briefly.)

3 THE COURT: Hang on, hang on. Ms. Shin, you broke
4 up again.

5 "...even more..." -- "...even more..." something?

6 MS. SHIN: Yes, Your Honor.

7 -- even more brazenly negotiated a confidential
8 settlement with the private defendants in this case without
9 filing the settlement terms on the docket. You will also
10 hear that Mr. Pawar never corrected the several versions of
11 the complaints he filed with the Court, even when he was
12 presented with ample evidence which cast serious doubt as to
13 the validity of Plaintiff's factual assertions. Instead,
14 Mr. Pawar simply withdrew from representing the plaintiff
15 once he was served with our Rule 11 motion and never
16 withdrew this case. Mr. Pawar now seeks to escape the
17 consequences of his own bad actions by hiding behind the
18 shield of attorney/client privilege and attempted to solicit
19 this Court's guidance; however, fraud on the Court or the
20 parties is not protected as an exception to the
21 attorney/client privilege.

22 In sum, you will hear through the testimony and
23 evidence that a web of lies was the sole basis of
24 Plaintiff's lawsuit before this Court, and that both
25 Plaintiff and Mr. Pawar were the driving forces to continue

1 this lawsuit until the City Defendant's letter to the Court
2 and subsequent Rule 11 motion that ultimately caused the
3 plaintiff to withdraw the case. This hearing is an
4 opportunity for the truth to be told about the facts and
5 circumstances of Plaintiff's arrest and to restore integrity
6 to the judicial proceedings, which thus far have been marred
7 with material fabrications.

8 We thank the Court for this opportunity to be
9 heard.

10 THE COURT: Thank you very much, Ms. Shin.

11 Mr. Sullivan, did you want to make an opening?

12 MR. SULLIVAN: Just very briefly, Judge.

13 This lawsuit was commenced by the plaintiff
14 because he was arrested at a particular date and time on
15 April -- in April of last year for a particular crime by
16 police officers of the New York City Police Department, and
17 he was charged with particular crimes. He did not believe
18 his arrest was justified. He did not procure his own
19 arrest. He did not arrange to be arrested. He did not
20 cause the police -- the police instead arrested him. He did
21 not believe his arrest was justified. He did not even know
22 the reasons why they arrested him, but when he was arrested,
23 he indicated that he wanted a lawyer.

24 He was held and brought to Central Booking. And
25 instead of being arraigned, the District Attorney at the

1 County of Queens, whose prerogative it is to prosecute
2 people in the County of Queens, determined and issued a
3 letter to him indicating that they would not be prosecuting
4 him, and the basis of any prosecution, as the Court is well
5 aware, is probable cause for arrest, okay, and that was the
6 decision. And now Plaintiff now goes to a lawyer and
7 complains that he was arrested falsely, and the complaint is
8 filed by that lawyer alleging false arrest against the
9 defendants who arrested him. And although Plaintiff has
10 withdrawn that lawsuit, I would submit that that lawsuit
11 has -- that it has merit; that there was not an actual
12 probable cause for the arrest, and this is the crux of all
13 false arrest cases. So it certainly is way more than
14 probable claim that was filed by Plaintiff.

15 The Defendant wants to focus on things that
16 happened in Queens Civil Court between the landlord and
17 tenant and the rights of occupants. That's not what this is
18 about. This is about whether Plaintiff's lawsuit against
19 the City of New York and against the Bureau of Police
20 Officers, the defendants, for an arrest without probable
21 cause and without any colorable basis in fact, and I submit
22 to you that the evidence will establish that it certainly
23 does.

24 THE COURT: Okay. Thank you, Mr. Sullivan.

25 Although this is somewhat unusual, I do have to

1 ask you one question because I do not believe that the
2 plaintiff is intending to testify at this hearing; am I
3 correct?

4 MR. SULLIVAN: Yes, Judge, particularly in light
5 of -- in the case -- in the Government's -- whatever -- the
6 City's reply, I'm sorry, in the defendants' reply papers,
7 they specifically asked this Court to refer my client to the
8 U.S. Attorney's Office. So under those circumstances, it
9 would be my practice and my preference to allow him to
10 testify under these circumstances, being a criminal lawyer
11 and having practiced criminal law since 1981.

12 THE COURT: Okay. But yet, you're making
13 statements about why your client filed this lawsuit, and I
14 am stopping you for a moment because it seems to me what you
15 just said is contrary to the affidavit that you submitted in
16 support of the opposition to the sanctions motion. In
17 Mr. Heaston's affidavit, he said he never saw the complaints
18 filed with the Court.

19 MR. SULLIVAN: That is correct, but he has seen it
20 since, Judge.

21 THE COURT: But it suggested he did not know that
22 the case was being filed, and yet, you are saying he
23 definitively wanted to file this lawsuit because he believed
24 he had been falsely arrested --

25 MR. SULLIVAN: Could I just --

1 THE COURT: -- and that --

2 MR. SULLIVAN: Judge, everything that's set forth
3 in the complaint is -- I'm sorry, not in the complaint, in
4 that affidavit by my client I stand by it --

5 THE COURT: And that --

6 MR. SULLIVAN: -- in the plaintiff's affidavit
7 that was submitted in opposition to the motion, we stand by
8 all the allegations.

9 THE COURT: I apologize, David. I interrupted --

10 MR. SULLIVAN: And he went to a --

11 THE COURT: Hang on, Mr. Sullivan.

12 David, I interpreted Mr. Sullivan, but he said "I
13 stand by it."

14 Is that correct?

15 MR. SULLIVAN: Yes.

16 And he went to a lawyer initially about property
17 that was missing subsequent to his arrest, and just having
18 the discussions with that lawyer, the lawyer brought up the
19 issue that there does not appear to be probable cause for
20 his arrest and referred him to Mr. Pawar.

21 THE COURT: Okay.

22 MR. SULLIVAN: It was there Mr. Heaston met with
23 Mr. Pawar and they prepared a notice of claim and decided to
24 pursue the lawsuit with the knowledge of my client, but my
25 client did not see the complaint that --

1 (Indistinguishable and indiscernible audio.)

2 (Requested portion read back.)

3 MR. SULLIVAN: Yeah.

4 So there's no doubt that my client under these
5 circumstances met Mr. Pawar, but a notice of claim was
6 prepared and signed by my client and that notice of claim, I
7 believe is an exhibit and it states exactly what the nature
8 of his claims were, the false arrest. Okay? So that
9 discussion occurred with Mr. Pawar. And so there's nothing
10 we're seeing that's contrary to -- that we do not say that
11 he didn't authorized the lawsuit, that's certainly not the
12 complaint. All I said is that he didn't see the specific
13 allegations in the complaint. That's all I'm saying.
14 Never -- he was never given an opportunity to review the
15 complaint before and that didn't happen, so --

16 THE COURT: Mr. Sullivan, you need to do
17 something. Get closer to the computer, okay, and speak
18 slower and louder.

19 MR. SULLIVAN: Okay.

20 THE COURT: We are all having difficulties hearing
21 and understanding you.

22 So what you are saying is that your client did not
23 see the complaint before it was filed; that's what his
24 declaration says, right?

25 MR. SULLIVAN: Yes. Not until after the attorney

1 withdrew and sent him his entire packet of -- entire packet
2 of papers.

3 THE COURT: And is there anything in the
4 complaint, I assume he's seen it now, that he is saying is
5 not true?

6 MR. SULLIVAN: I must admit I did not go through
7 the entire complaint with him -- as a matter of fact, I
8 never went through the exact complaint with him and say, Is
9 this true; is this not true? We never did that paragraph by
10 paragraph, admit or deny.

11 THE COURT: Okay. He --

12 MR. SULLIVAN: I actually --

13 THE COURT: But he is not backing off of his claim
14 that he was falsely arrested by the police, correct?

15 MR. SULLIVAN: He has withdrawn the complaint as
16 to these -- this laden -- as to these allegations. After
17 discussing it with prior counsel and with myself, we decided
18 that was the best course of action, because even with
19 credibility issues and all the things that were raised
20 there, that the best course would be to withdraw the lawsuit
21 at this stage.

22 THE COURT: Okay.

23 MR. SULLIVAN: But that does not mean he does not
24 believe he was falsely arrested.

25 THE COURT: Okay. That is my question. So he is

1 not saying he wasn't falsely arrested, correct?

2 MR. SULLIVAN: No.

3 THE COURT: All right. And he is still saying
4 that he had a right to be in that apartment; that's the
5 issue, right?

6 MR. SULLIVAN: No, that's not the issue. That is
7 not the issue before the Court. That's not the nature of
8 the charge -- of the allegations that were made. The
9 allegations were he was not inside the place when he was
10 arrested. He didn't even know why he was arrested. He was
11 arrested outside the premises. He wasn't arrested for -- I
12 don't believe for anything that happened that day.

13 THE COURT: What's the basis --

14 MR. SULLIVAN: We don't even believe -- I'm
15 sorry, Your Honor.

16 THE COURT: What is the basis of his false arrest
17 claim, then?

18 MR. SULLIVAN: That he was arrested that day on
19 April 29th, I believe it was, without probable cause, and
20 the District Attorney he believes agreed with him in
21 dismissing the case.

22 THE COURT: I am not sure how you can defend him
23 in this case without ever having him read the actual
24 complaint because he doesn't know what was said in it and
25 you cannot tell me which parts of it he is saying are false

1 or not false such that I can determine whether or not he
2 lied in some way to his lawyer or he's lying to me, but you
3 so broadly say he doesn't take any responsibility for
4 anything that was filed in this Second Amended Complaint.

5 (Pause in proceedings.)

6 THE COURT: I don't know how you can do that
7 unless you read --

8 (Mr. Sullivan exits the proceedings.)

9 (Pause in proceeding.)

10 THE COURT: It appears that we have lost
11 Mr. Sullivan.

12 Fida, is there any way to determine what is going
13 on with Mr. Sullivan's connection --

14 (Mr. Sullivan reconnects to the proceedings.)

15 THE COURT: Oh, there. All right. There we go.

16 All right. You know, let's move on Mr. Sullivan.
17 I think you may have cut out somewhere in the middle of my
18 comments, but let's move on and let me hear the evidence and
19 we can have further argument on this issue later.

20 All right. Call your first witness, Mr. Sundaran
21 or Ms. Shin.

22 MR. SUNDARAN: Yes, Your Honor. Defense calls
23 Plaintiff Ira Heaston as their first witness.

24 THE COURT: Okay.

25 MR. SULLIVAN: You're on.

1 THE COURT: Oh, my apologies. I hadn't actually
2 realized you were calling -- I guess I'm working off of a
3 different -- oh, here we go. Okay.

4 MR. SUNDARAN: Your Honor, if you prefer I can
5 give you a list of the order of witnesses.

6 THE COURT: No, that's fine. Proceed in whatever
7 order you want. That's fine.

8 So why don't we start with Mr. Heaston?

9 Well, let me ask a question, though. So I
10 understand that Officer Portillo is no longer on the call;
11 is that right?

12 MR. SUNDARAN: I believe he's not in the box, but
13 my colleague, Ms. Shin, can try to reach him by text at PD
14 Communications.

15 THE COURT: Well, she can --

16 MR. PORTILLO: Your Honor, I'm -- I'm here again.

17 MR. SUNDARAN: Okay.

18 THE COURT: Okay. Can I ask you to do me a favor?
19 Either leave where you are or turn off your microphone. I
20 know it sounds unusual, but I don't want to lose your
21 connection because it was so difficult to get you on the
22 conference. But I am going to ask you to turn off your
23 microphone so that you do not hear the testimony or leave
24 the room where the computer is.

25 MS. SHIN: Judge, just very quickly, would that

1 apply to the President of Borris, Inc., who is sitting in
2 the conference room right now with the attorney for
3 Borris, Inc., because he will be also a witness?

4 THE COURT: Am I incorrect that they were a
5 defendant at one point in this case?

6 MS. SHIN: Yes.

7 MR. SUNDARAN: They were, indeed, Your Honor.

8 THE COURT: You know, I think it's slightly
9 typical to all parties, even though they have settled, this
10 is an usual posture, but I think that they can remain in the
11 room.

12 MS. SHIN: Yes, Your Honor.

13 THE COURT: Any representative of a party, even if
14 they have settled or resolved the case can remain in the
15 conference.

16 Okay. So let's go ahead and start with this
17 witness.

18 Mr. Heaston. If you will raise your right hand to
19 be sworn in.

20 Just remember to unmute.

21 THE WITNESS: Yeah. I'm here.

22 I R A H E A S T O N,

23 called as a witness having been first duly
24 sworn/affirmed, was examined and testified as
25 follows:

1 THE COURTROOM DEPUTY: Please state and spell your
2 name for the record.

3 THE WITNESS: Ira Heaston, I-R-A; H-E-A-S-T-O-N.

4 THE COURT: You may inquire, Mr. Sundaran or
5 Ms. Shin.

6 MR. SUNDARAN: Thank you, Your Honor.

7 DIRECT EXAMINATION

8 BY MR. SUNDARAN:

9 Q Good afternoon, Mr. Heaston.

10 A Good afternoon.

11 Q Do you go by any nicknames or aliases?

12 A Under the advice of my counsel --

13 (Audio cuts out briefly.)

14 A -- the Fifth Amendment.

15 Q Were you --

16 THE COURT: Hang on.

17 "On the advice of my counsel, I'm taking the
18 Fifth Amendment?"

19 (Audio cuts out briefly.)

20 THE COURT: Wait. Say it again, sir. Get closer
21 to the computer.

22 A Under the advice of my counsel, I'm going to invoke my
23 Fifth Amendment right.

24 BY MR. SUNDARAN:

25 Q Mr. Heaston, where do you currently reside?

1 A Under the advice of my counsel, I'm going to submit --
2 or invoke my Fifth Amendment right.

3 THE COURT: Mr. Heaston, have you ever resided at
4 84-21 Chapin Parkway, Queens, New York?

5 THE WITNESS: Under the advice of my counsel, I'm
6 going to invoke my Fifth Amendment right.

7 BY MR. SUNDARAN:

8 Q Mr. Heaston, do you presently work?

9 A Under the advice of my counsel, I'm going to invoke my
10 Fifth Amendment right.

11 Q Mr. Heaston, did you accept settlement monies from
12 Borris, Inc. as a result of this action that you've brought
13 to federal court?

14 A Under the advice of my counsel, I'm going to invoke my
15 Fifth Amendment right.

16 Q Mr. Heaston, were you aware that there were three
17 lawsuits filed in connection with your action in this
18 the Court?

19 A Under the advice of counsel, I'm invoking my Fifth
20 Amendment right.

21 Q Are you aware that your housing court proceedings was
22 attached as an exhibit to the Second Amended Complaint filed
23 with this Court --

24 MR. SULLIVAN: I'm going to object --

25 THE COURT: We can't hear you, Mr. Sullivan. Get

1 closer to the computer.

2 MR. SULLIVAN: I'm objecting to the further
3 questioning of my client. It's clear to counsel and the
4 Court that --

5 THE COURT: Okay. Mr. Sullivan, get closer to the
6 computer. You are all jumbled and we are not hearing you.

7 (Pause in proceedings.)

8 MR. SULLIVAN: So I am objecting to the further
9 questioning of my client. He has exercised -- indicated in
10 very clear terms, exercised his right. He's made it clear
11 that he's exercised his right and he advocates --

12 (Audio cuts out briefly.)

13 MR. SULLIVAN: -- particularly --

14 THE COURT: Okay. Stop.

15 Okay. So the last part, you have made it clear
16 that he's exercising his rights. And then you said
17 "particularly" what, sir?

18 MR. SULLIVAN: Particularly --

19 (Audio cuts out briefly.)

20 THE COURT: Nope. I'm sorry. Again,
21 "particularly"?

22 MR. SULLIVAN: -- in view of the application --

23 THE COURT: -- "in view of the application" --

24 MR. SULLIVAN: -- of Defense Counsel to be
25 referred to the U.S. Attorney's Office.

1 So I don't see the point of asking these
2 questions, but it's clear that he's -- that my client is
3 exercising his Fifth Amendment rights.

4 THE COURT: Okay. So I am going to overrule that
5 objection for two reasons: First of all, with respect to
6 the invocation of a Fifth Amendment right, it has to be
7 specific as to one certain question. It cannot be a broad
8 invocation as to all questions being asked, because in order
9 to defend that, there has to be specific questions that are
10 asked so that I can determine if the invocation as it stands
11 of that right is proper.

12 And the second reason is is that in a civil
13 proceeding, and that's what a sanctions proceeding is as
14 opposed to a criminal proceeding, I can take a negative
15 inference based on his implication of his Fifth Amendment
16 rights for purposes of deciding the sanctions motion.
17 That's separate from whether or not the U.S. Attorney's
18 Office takes any action based on the allegations here or his
19 testimony.

20 So I don't know if you have advised Mr. Heaston,
21 but it could be that his invocation of the Fifth could lead
22 to I inferring negatively as to any specific question that
23 he is asked as to which he invokes his Fifth Amendment
24 right.

25 So, Mr. Heaston, I hope you are aware that while

1 you may be invoking the Fifth to protect yourself against
2 criminal exposure, in a civil proceeding your invocation
3 could lead to my making an inference that is negative to
4 you. So for example if you are asked a question of, Did you
5 know that the lease was attached to the
6 Second Amended Complaint and you invoke the Fifth, I could
7 negatively infer that you did know that because of your
8 invocation. And that's a different rule than what applies
9 in a criminal lawsuit. So I want you to be aware of that as
10 you are invoking the Fifth Amendment as to every question.
11 And I am going to allow the defense attorney, Mr. Sundaran,
12 to ask all of the questions, because as I said before, I
13 have to find that your invocation is proper as to each
14 question and that you cannot blanketly assert the
15 Fifth Amendment as to any question that is asked of you in
16 today's proceedings.

17 So, Mr. Sundaran, with that, why don't you
18 continue.

19 MR. SUNDARAN: Thank you, Your Honor.

20 If I could ask the court reporter to repeat the
21 last question and answer.

22 (Requested portion read back.)

23 MR. SUNDARAN: Thank you.

24 BY MR. SUNDARAN:

25 Q Mr. Heaston, were you aware that your lease in the

1 housing court proceeding actions was attached in the
2 Second Amended Complaint filed in this court?

3 A No.

4 Q And, Mr. Heaston, what is your relationship to Salim
5 Blake?

6 A Under advice of my counsel, I'm going to invoke my
7 Fifth Amendment right.

8 THE COURT: Excuse me, Mr. Sundaran.

9 Can you position the camera, Mr. Sullivan, so I
10 can see Mr. Heaston as he is testifying?

11 MR. SULLIVAN: (Complies.)

12 THE COURT: Okay. Thank you.

13 MR. SUNDARAN: May I proceed, Your Honor?

14 THE COURT: Yes.

15 BY MR. SUNDARAN:

16 Q Mr. Heaston, are you aware whether or not Salim Blake
17 is the principal and owner of Borris, Inc.?

18 A Under the advice of my counsel, I invoke my
19 Fifth Amendment right.

20 Q Mr. Heaston, did you enter into a lease for the
21 second-floor apartment for the middle apartment at
22 84-21 Chapin Parkway for the months of January 2019 through
23 April of 2019?

24 A Under the advice of my counsel, I invoke my Fifth
25 Amendment right.

1 Q Mr. Heaston, are you aware that the lease you submitted
2 in connection with this lawsuit and in connection with the
3 housing court proceedings was a fraudulent lease?

4 A Under the advice of my counsel, I invoke my Fifth
5 Amendment right.

6 Q Mr. Heaston, are you claiming to have paid the security
7 deposit and rent for the months of January 2019 through
8 April of 2019?

9 A Under the advice of my counsel, I invoke my Fifth
10 Amendment right.

11 Q Mr. Heaston, as you sit here today, do you still
12 maintain that you were illegally locked out from
13 84-21 Chapin Parkway --

14 THE COURT: Uh-oh.

15 (Mr. Pawar enters the proceeding.)

16 MR. PAWAR: Did I come too early?

17 THE COURT: Yes. Sorry, Mr. Pawar, we've had some
18 delays. If you could give us another 15 minutes, that would
19 be great.

20 MR. PAWAR: All right.

21 THE COURT: Thank you. We would appreciate it.

22 All right.

23 You seem to have dropped off again, correct, Fida?

24 THE COURTRoom DEPUTY: That is correct,
25 Your Honor.

1 THE COURT: All right. I do see -- oh, there we
2 go. Okay. I see Mr. Heaston.

3 Go ahead.

4 MR. SUNDARAN: Thank you, Your Honor.

5 BY MR. SUNDARAN:

6 Q Mr. Heaston, as you sit here today before this Court,
7 are you still claiming that you were illegally locked out of
8 84-21 Chapin Parkway on April 26, 2019?

9 A Under the advice of my counsel, I'm invoking my Fifth
10 Amendment right.

11 Q Mr. Heaston, as you sit here today, are you still
12 claiming to have been locked out of 84-21 Chapin Parkway
13 several times?

14 A Under the advice of my counsel, respectfully, I'm
15 invoking my Fifth Amendment right.

16 Q Mr. Heaston, on April 26, 2019 did you call the police
17 for assistance in your illegal-lockout claim at the premises
18 of 84-21 Chapin Parkway?

19 A Respectfully on the advice of my counsel, I'm invoking
20 my Fifth Amendment right.

21 Q Mr. Heaston, on April 26, 2019 did you present to the
22 officers who responded your lease and housing court order?

23 A Respectfully, I'm -- under the advice of my counsel,
24 I'm invoking my Fifth Amendment right.

25 Q Mr. Heaston, did you settle your claim against

1 Borris, Inc. for a monetary amount?

2 A Under the advice of my counsel, I'm --

3 MR. SULLIVAN: You can answer that.

4 THE WITNESS: Answer that?

5 A Yes, my attorney said I can answer --

6 THE COURT: Yes. Mr. -- go ahead. Finish your
7 answer. I'm sorry.

8 A My attorney -- my attorney -- my former attorney had
9 settled and sent through his --

10 (Audio cuts out briefly.)

11 A -- my former settled and sent me a --

12 (Audio cuts out briefly.)

13 THE COURT: Sent you a what?

14 THE WITNESS: I said he sent a check.

15 THE COURT: Sent a check?

16 THE WITNESS: Yes.

17 THE COURT: Okay.

18 Mr. Sundaran, will you spell Borris; is it
19 B-O-R-I-S or B-O-R-R --

20 MR. SUNDARAN: No, Your Honor. Borris is spelled
21 with two "Rs," Your Honor, B-O-R-R-I-S, Inc., as it appears
22 on the Second Amended Complaint.

23 THE COURT: All right.

24 MR. SUNDARAN: That is the correct spelling,
25 Your Honor.

1 THE COURT: All right.

2 And that is who you settled with, Mr. Heaston?

3 THE WITNESS: Honestly, I'm not for sure.

4 THE COURT: Okay.

5 All right. Go ahead, Mr. Sundaran.

6 BY MR. SUNDARAN:

7 Q Mr. Heaston, how much money did you receive from
8 Borris, Inc. as part of the settlement?

9 A Well, I don't -- I received money from my attorney
10 \$2,000.

11 Q How much?

12 A \$2,000.

13 THE COURT: Two?

14 THE WITNESS: \$2,000. \$2,000 in a check form from
15 Vik Pawar.

16 THE COURT: In a what?

17 THE WITNESS: In a check form from Vik Pawar.

18 THE COURT: From Vik Pawar, okay.

19 BY MR. SUNDARAN:

20 Q Mr. Heaston, did you understand that that check from
21 Mr. Pawar was in connection with your lawsuit in this court
22 against Borris, Inc.?

23 A Yes.

24 Q Mr. Heaston, did you commence a housing court action in
25 Queens Civil Court in or around April of 2019?

1 A Respectfully with the advice of my counsel, I am
2 invoking my Fifth Amendment right.

3 Q Mr. Heaston, did you follow a verified petition
4 claiming to be a resident at 84-21 Chapin Parkway in
5 Queens Civil Housing Court in or around April of 2019?

6 A Respectfully with the -- under the advice of my
7 counsel, I'm invoking my Fifth Amendment right.

8 Q Mr. Heaston, did you file an affidavit of service
9 indicating proof of service on Borris, Inc. in Queens Civil
10 Housing Court in or around April of 2019?

11 A With the advice of my counsel, I'm invoking my Fifth
12 Amendment right.

13 THE COURT: All right. Let's abbreviate this by
14 just saying "Fifth Amendment" whenever you're invoking your
15 Fifth Amendment right.

16 THE WITNESS: Perfect.

17 THE COURT: All right. Go ahead.

18 BY MR. SUNDARAN:

19 Q Mr. Heaston, did Judge Lydia C. Lai issue a written
20 decision and order from Queens Civil Housing Court in
21 connection with your complaint for illegal lockout?

22 A Fifth Amendment. I plead the Fifth Amendment.

23 Q Did you receive a copy of Judge Lai's order from
24 Queens Civil Housing Court?

25 A My Fifth Amendment.

1 Q Mr. Heaston, did you pay Salim Blake or anyone from
2 Borris, Inc. \$2,000 as a security deposit for the
3 premises -- for the apartment at 84-21 Chapin Parkway?

4 A I plead my Fifth Amendment right.

5 Q Did you pay the amount of \$2,650 for the month of
6 January 2019 in connection with the apartment at
7 84-21 Chapin Parkway?

8 A I plead the Fifth Amendment.

9 Q Did you pay \$2,650 for the month of February of 2019
10 for the apartment at 84-21 Chapin Parkway?

11 A I plead the Fifth Amendment right.

12 Q For the month of March of 2019, did you pay a rental
13 payment in the amount of 2650 in connection with the
14 apartment at 84-21 Chapin Parkway?

15 A Plead the Fifth Amendment right.

16 Q For the month of April of 2019, did you make a payment
17 of \$2,650 for an apartment that was located at
18 84-21 Chapin Parkway?

19 A Plead the Fifth Amendment right.

20 Q Mr. Heaston, did you not introduce copies of that
21 security deposit receipt and rental receipt in Queens Civil
22 Housing Court?

23 A I didn't hear you. I'm sorry. I didn't hear you.

24 Q Did you introduce copies of the security deposit and
25 rental receipts in connection with your housing court

1 proceeding?

2 A Plead the Fifth Amendment right.

3 Q Did you introduce the security deposit and rental
4 receipts in connection with your apartment at
5 84-21 Chapin Parkway in this action in federal court?

6 A No.

7 Q I'm sorry. Your answer was "no"?

8 A Yes.

9 THE COURT: Yes, it was "no," just so the record's
10 clear.

11 THE WITNESS: Can you ask the question again?

12 BY MR. SUNDARAN:

13 Q Did you introduce copies of the security deposit and
14 rental receipts in connection with this lawsuit filed in
15 federal court?

16 A No.

17 Q Were you aware that your lawyer had introduced copies
18 of the security deposit receipt and rental receipts in
19 connection with the lawsuit brought on your behalf in this
20 court?

21 A Honestly, no.

22 Q Mr. Heaston, sitting here today, are you telling this
23 Court that you were completely unaware that any lawsuit was
24 filed in this court?

25 A That is not what I'm saying.

1 Q Were aware that a lawsuit was filed on your behalf in
2 this court?

3 A I mean, the fact of when I know, I didn't -- I didn't
4 know when it was filed. I found out myself that it was
5 filed, but I had reason to believe that it would be filed;
6 that it may be filed because when I left his office he said
7 that he would be in contact with me. I just took it for
8 granted.

9 Q Mr. Heaston, the question is a little bit more
10 specific. Were you aware -- prior to sitting here today,
11 were you aware -- or prior to Mr. Pawar sending you copies
12 of your lawsuit, were you aware that a lawsuit was filed in
13 this court on your behalf?

14 A No.

15 Q Were you aware --

16 THE COURT: I'm sorry.

17 Q -- that your --

18 THE COURT: Hang on a second, Mr. Sundaran.

19 I'm sorry, sir. Was your answer, "no," you were
20 not aware that a lawsuit was filed on your behalf in this
21 court?

22 THE WITNESS: Well, I mean, no, it wasn't really
23 until like June, like July, I didn't know when he filed it.
24 I just went to his office to sign papers in like October
25 last -- last October. And then this year he was actually --

1 he told me actually --

2 (Audio cuts out briefly.)

3 A -- I questioned -- actually --

4 (Audio cuts out briefly.)

5 (Pause in proceeding.)

6 THE COURT: Okay. Hang on. Hang on. Hang on.

7 Hang on. Hang on. You have to start again.

8 THE WITNESS: Well --

9 THE COURT: Hang on. Hang on. Hang on.

10 David, would you please read back where we left
11 off and where we dropped off?

12 (Requested portion read back.)

13 A I'm saying no, I wasn't aware -- I'm aware of --

14 (Audio cuts out briefly.)

15 A -- lawsuit and when it was filed --

16 (Audio cuts out briefly.)

17 A -- no, over the monetary suit --

18 (Audio cuts out briefly.)

19 A -- and I'm not aware when it was filed --

20 THE COURT: Stop, stop, stop, stop, stop, stop,
21 stop, stop. I'm sorry.

22 You said something about "monetary." You
23 didn't -- David, I don't know how much you got, but I only
24 caught the part where you're saying -- and let's just answer
25 this in small bites, okay?

1 Are you saying that at the time your lawsuit was
2 filed, you did not know it was filed; is that right?

3 THE WITNESS: Absolutely.

4 THE COURT: And you're saying you found out
5 afterwards that it had been filed?

6 THE WITNESS: I found out when it -- because I
7 spoke to him one time when I caught up with him, and then
8 maybe eight -- 80 --

9 (Audio cuts out briefly.)

10 THE WITNESS: -- I met with someone else for a
11 hearing and that's it. Like I spoke to him --

12 THE COURT: Okay. Hang on, hang on, hang on.

13 Maybe you should -- possibly you should back away
14 from the computer a bit.

15 THE WITNESS: Okay.

16 THE COURT: Okay. Try that again.

17 David, I'm sorry, where do you have him dropping
18 off?

19 (Requested portion read back.)

20 THE COURT: Okay. Let's try this again.

21 When did you find out a lawsuit had been filed on
22 your behalf?

23 THE WITNESS: Maybe before -- before the summer,
24 like around the summer, maybe, of 2020.

25 THE COURT: Okay. And how did you find out?

1 THE WITNESS: I looked up my name.

2 THE COURT: You look up what, sir?

3 THE WITNESS: I Googled my name, because I was --

4 THE COURT: One more time. You Googled your own
5 name?

6 THE WITNESS: Yeah, I Googled my name. I Googled
7 my name and Vik Pawar's name because --

8 THE COURT: Excuse me. But why didn't you just
9 call Mr. Pawar?

10 THE WITNESS: I called Mr. Pawar many different
11 times. Mr. Pawar doesn't return phone calls. Like I only
12 spoke to him for maybe three or four times.

13 THE COURT: And is it your testimony that
14 Mr. Pawar never showed you a copy of the original complaint
15 that he filed on your behalf?

16 THE WITNESS: I have, honest to God, never seen
17 a -- seen a copy of the complaint that was filed on my
18 behalf until now.

19 THE COURT: And Mr. Pawar never told you about
20 what he was going to file?

21 THE WITNESS: Mr. Pawar said, Sit tight. I'm
22 going to take care of you.

23 THE COURT: All right. So Mr. Pawar said, "Sit
24 tight. I'm going to take care of you"?

25 THE WITNESS: Yeah.

1 THE COURT: And then what else did he say?

2 THE WITNESS: That's it. That's what -- I'd been
3 waiting. And then he hit me with the nugget that he said
4 that he's leaving the case. Like, I don't even know what
5 was going on.

6 THE COURT: I'm sorry. But in between there,
7 though, you said you got a settlement?

8 THE WITNESS: Yeah.

9 (Mr. Pawar enters the proceeding.)

10 THE COURT: Mr. Pawar, actually I need you to
11 leave again. I'm so sorry.

12 MR. PAWAR: All right.

13 THE COURT: Give us another 15 minutes. We are
14 having technical issues.

15 MR. PAWAR: Okay. Judge, just one thing,
16 Your Honor, I need to --

17 THE WITNESS: Like I said --

18 THE COURT: Hang on, hang on.

19 THE WITNESS: Oh, okay.

20 MR. PAWAR: I have a 2:45 telephone conference
21 with Judge Pollak.

22 THE COURT: Okay. Well, we are actually not going
23 to hear from you next anyway. We are going hear from
24 Mr. Blossner, so if we have to, we will take you out of
25 order. Are you doing your conference --

1 MR. PAWAR: All right.

2 THE COURT: -- are you doing your conference by
3 computer?

4 MR. PAWAR: No, no, I'm going to call. But as I
5 said, I have to come in to set up this up for
6 Mr. Blossner --

7 THE COURT: All right.

8 MR. PAWAR: -- so I will be back at 2:30.

9 THE COURT: Yes, absolutely.

10 MR. PAWAR: All right. Thank you.

11 THE COURT: Okay. Thank you. Sir.

12 (Mr. Pawar exits.)

13 THE COURT: All right. David, where did we leave
14 off? I am so sorry -- oh, never mind. Hang on, I remember
15 where we were.

16 I was saying to you, Mr. Heaston, that at some
17 point, though, between when the complaint was filed and now,
18 you said Mr. Pawar sent you a check?

19 THE WITNESS: Yeah, that was in the summertime
20 when --

21 THE COURT: Okay. And you knew there was a
22 lawsuit filed, right?

23 THE WITNESS: I did not know anything. I
24 actually -- every time I see him Mr. -- every time I asked
25 him, and he was like -- I was like, What's going on with my

1 court -- with my court proceeding? And he was like, When I
2 need you, I'll let you know. That's it. That's all he
3 would say.

4 THE COURT: Okay. Let me turn this back to
5 Mr. Sundaran, because the technical issues are a bit
6 daunting.

7 Try not to move too much.

8 THE WITNESS: All right.

9 THE COURT: Stay still and stay as far as you are
10 away from your computer.

11 MR. SUNDARAN: May I proceed, Your Honor?

12 THE COURT: Yes.

13 Everyone else mute, please.

14 MR. SUNDARAN: Your Honor, at this time, the
15 defendants ask that the Court take judicial notice of the
16 original complaint filed October 2nd, 2019; that the Court
17 take judicial notice of the First Amended Complaint, filed
18 October 9, 2019; and that the Court take judicial notice of
19 the Second Amended Complaint, filed March 9th of 2020.

20 BY MR. SUNDARAN:

21 Q Mr. Heaston, are you aware that Mr. Pawar settled your
22 claim with Borris, Inc. back on March 9th of 2020?

23 A No.

24 Q Mr. Heaston, did you present yourself and participate
25 at a 50-h Hearing on November 13, 2019 --

1 A Yes --

2 Q -- after the filing of the First Amended Complaint?

3 A I don't know about after anything, but I know I did go
4 to a -- to a hearing, yes.

5 Q That was last year in November sometime?

6 A Yes.

7 Q And you were represented by a Mr. Robert Blossner from
8 Mr. Pawar's office, correct?

9 A Yes.

10 Q And you were made aware that was in connection with a
11 claim that you had against the City in connection with your
12 false arrest claim from April 26th, correct?

13 A No, I just -- he just said that it was a hearing and to
14 tell the truth at the hearing. That's what he told me, it
15 was a hearing and he said to tell the truth. He said that
16 it -- it could help my case.

17 Q Sir, are you telling this Court that you participated
18 in a 50-h Hearing, and you had -- you had no idea it had to
19 do with your arrest?

20 A Honestly -- no, I mean he said -- he said to tell the
21 truth, it could help your case. I didn't know -- like,
22 that's it. That's what I did. They asked me questions and
23 I -- I spoke to them.

24 Q Did you make representations under oath at your 50-h
25 that you were a resident at 84-21 Chapin Parkway?

1 A With my counsel's advice, I plead the Fifth Amendment
2 right.

3 Q Did you make representations under oath at your 50-h
4 that you entered into a two-year lease agreement with
5 Borris, Inc.?

6 A Under my counsel's advice, I plead my Fifth Amendment
7 right.

8 Q Did you make representations under oath at your 50-h
9 proceeding that you were falsely arrested by the officers of
10 the NYPD?

11 A I plead the Fifth Amendment.

12 MR. SUNDARAN: Your Honor, at this time,
13 Defendants ask the Court to take judicial notice of 50-h
14 transcript attached as Defendants' Exhibit Q.

15 THE COURT: And just so the record is clear, the
16 other exhibits that you referenced, the complaint, the
17 First Amended Complaint, and the Second Amended Complaint
18 what are those exhibit numbers?

19 MR. SUNDARAN: Sure. The complaint, the
20 First Amended Complaint, and the Second Amended Complaint
21 are Exhibits A, B, C respectively.

22 THE COURT: Okay. A, E, C?

23 MR. SUNDARAN: A, as in "apple"; B, as in "boy";
24 and C, as in "Charlie."

25 THE COURT: Okay. Perfect. Thank you.

1 MR. SUNDARAN: Defendants would also like to move
2 into evidence Exhibit D -- D, as in "David"; E, as in
3 "elephant"; F, as in "Frank"; G, as in "Gary"; H, as in
4 "Harry"; I, as in "Ingrid"; J, as in "John"; and K, as in
5 "Kate."

6 THE COURT: And what is your proffer as to what
7 these are? I mean, I have them in electronic format, but
8 it's a little hard to --

9 MR. SUNDARAN: Oh, sure. Exhibits A, B, C are the
10 plaintiff's complaints. D, E, F, G, H, I, J, K were all
11 attached to his Second Amended Complaint -- I'm sorry, with
12 the exception of J, with the exception of J. D, E, F, G, H,
13 I, and K were attached to the Second Amended Complaint.

14 J, I'm offering as a public record. And Exhibit
15 Q, as Plaintiff has now demonstrated, are from the
16 50-h Hearing.

17 THE COURT: All right. All of those are --

18 MR. SUNDARAN: Are they in --

19 THE COURT: Yes, all of those are admitted as
20 public records.

21 (Defendants' Exhibits A, B, C, D, E, F, G, H, I,
22 J, K, and Q so marked and received in evidence.)

23 BY MR. SUNDARAN:

24 Q Mr. Heaston, at your 50-h Hearing on November 13th,
25 2019, did you allege that you suffered physical injuries as

1 a result of your arrest on April 26, 2019?

2 A Yes.

3 Q Mr. Heaston, did you produce any medical records to
4 Mr. Pawar or medical releases to Mr. Pawar in connection was
5 your alleged physical injuries?

6 A No.

7 Q Did you produce any photos of your alleged physical
8 injuries to Mr. Pawar?

9 A Yes.

10 Q Are you aware of whether or not Mr. Pawar produced
11 those photos to us?

12 A Well, I'm not aware of anything -- any paperwork that
13 he do.

14 Q Mr. Heaston, did you call the police on April 26, 2019
15 outside of 84-21 Chapin Parkway?

16 A Yes.

17 Q Did you tell the police that you were illegally locked
18 out?

19 A Plead the Fifth Amendment right.

20 Q Did you complain to the police officer on April 26,
21 2019 that your apartment looked like someone had taken
22 everything?

23 A Plead the Fifth Amendment right.

24 Q Did you tell the police who responded that a Samsung TV
25 was stolen?

1 A Plead the Fifth Amendment right.

2 Q Did you tell the police who responded that a burgundy
3 leather love seat was stolen?

4 A Plead the Fifth Amendment right.

5 (Continued on the next page.)

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1 DIRECT EXAMINATION

2 BY MR. SUNDARAN (continuing) :

3 Q Did you tell the police who responded that silverware,
4 boxes of clothes, two twin beds, a microwave oven were also
5 missing?

6 A Plead the Fifth Amendment right.

7 Q Did you also tell the police that shades and curtains
8 were missing?

9 A Plead the Fifth Amendment right.

10 Q Did you ever produce receipts or -- Mr. Heaston, isn't it
11 true that you and Salim Blake are childhood friends?

12 A Plead the Fifth Amendment right.

13 Q Mr. Heaston, isn't it true that you and Salim Blake grew
14 up in the same foster home?

15 A False. Plead the Fifth Amendment right.

16 Q Mr. Heaston, isn't it true that you are currently
17 residing with Mr. Salim Blake?

18 A False.

19 Q Mr. Heaston, did Salim Blake ever live at
20 84-21 Chapin Parkway?

21 A Plead the Fifth Amendment right.

22 Q Did Salim Blake have any business or office at
23 84-21 Chapin Parkway?

24 A Plead the Fifth Amendment right.

25 Q Mr. Heaston, did you show a copy of the lease that you

1 had with Mr. Blake to the police officers responding?

2 A Plead the Fifth Amendment right.

3 Q Did you show copies of the housing court documents to the
4 police that responded?

5 A Plead the Fifth Amendment.

6 Q Did detectives respond to the scene on April 26, 2019?

7 A Plead the Fifth Amendment right.

8 Q Did one of the detectives who responded to
9 84-21 Chapin Parkway show you a photograph, where you
10 identified yourself on it?

11 A Plead the Fifth Amendment right.

12 Q Did the detective who responded on April 26 ask you to
13 come with him back to the precinct to sort out information
14 pertaining to a burglary report at 84-21 Chapin Parkway?

15 A No.

16 Q Did the detective who responded advise you that there
17 were reports of a burglary at 84-21 Chapin Parkway?

18 A Plead the Fifth Amendment right.

19 MR. SULLIVAN: Judge, I think -- he doesn't --
20 were --

21 THE COURT REPORTER: I didn't hear what Mr. Sullivan
22 said, Your Honor.

23 THE COURT: Mr. Sullivan, what did you say?

24 MR. SULLIVAN: I was instructing him to exercise his
25 Fifth Amendment right to that question, on what the police

1 should be told.

2 THE WITNESS: They didn't tell me.

3 MR. SUNDARAN: May I proceed, Your Honor?

4 THE COURT: No. I'm sorry. I can't understand
5 what's being said.

6 Mr. Sullivan, you said you advised Mr. Heaston to
7 exercise his Fifth Amendment right, and then what did you say,
8 Mr. Heaston?

9 MR. SULLIVAN: Just the opposite. I said with
10 respect to that question I advised him to not assert the
11 privilege.

12 THE COURT: Okay. So to not assert the privilege.
13 Okay.

14 Go ahead and answer the question then, Mr. Heaston.

15 THE WITNESS: Can you repeat the question?

16 MR. SUNDARAN: Madam Court Reporter, can you please
17 read the question back.

18 (Record read.)

19 A (Continuing) No.

20 Q Mr. Heaston, are you telling this court that you were not
21 shown a photograph depicting an image on it by the detective
22 that responded?

23 A I plead the Fifth Amendment.

24 Q Mr. Heaston --

25 A Yes?

1 Q -- did you sign a notice of claim in connection with your
2 lawsuit against the City?

3 A Notice of claim, you said?

4 Q Yes.

5 A Yes.

6 Q And in that notice of claim, did you assert a host of
7 physical injuries?

8 MR. SULLIVAN: Do you remember?

9 A Yeah, I don't.

10 MR. SULLIVAN: Sit back.

11 THE COURT: You know what. Hang on one second.

12 I think the unusual setting for this made me forget
13 about a basic fact, or rule rather, which is that,
14 Mr. Sullivan, you shouldn't be advising your client while he
15 is on the stand as to how to testify. So you need to stop
16 giving him advice, or else we have to move him to a different
17 room.

18 MR. SULLIVAN: Judge --

19 THE COURT REPORTER: Your Honor, I can't understand
20 what he is saying.

21 THE COURT: Yes. So Mr. Sullivan asked me if he is
22 allowed to advise him about his Fifth Amendment right; and my
23 answer to that is no, not while he is on the stand. So he is
24 technically on the witness stand, and you are not seated
25 anywhere near him ordinarily, to be whispering into his ear.

1 So I want you to stop doing that.

2 All right. Go ahead, Mr. Sundaran.

3 BY MR. SUNDARAN:

4 Q Mr. Heaston, did you sign under oath the complaint in
5 connection with your lawsuit against the City?

6 THE COURT: Mr. Heaston, I want you to do this.

7 Don't look at your lawyer. I want you to just testify.

8 (No sound for plaintiff.)

9 THE COURT: I can't hear you. Are you using a phone
10 or a computer? Okay. Go ahead, Mr. Heaston.

11 Do you remember the question?

12 MR. SUNDARAN: Mr. Heaston, are you able to hear me?
13 You are on mute. Mr. Heaston, could you please unmute
14 yourself. You are on mute.

15 THE COURT: He can't hear us, it appears. Okay.

16 You did something to the phone or the computer. Can
17 you hear now, Mr. Heaston? Can you hear us? Mr. Heaston, if
18 you can hear us say something.

19 (No video for plaintiff.)

20 THE COURT: Mr. Heaston, can you hear us now?

21 (No video for plaintiff.)

22 MR. SUNDARAN: Sorry, judge.

23 THE COURT: No, that's okay.

24 Can you hear us, Mr. Heaston? If you can hear me,
25 let me suggest that you disconnect and then reconnect.

1 Mr. Heaston? Can you hear us? Okay. We can't hear you at
2 all. You are on mute, it would appear. Can you unmute
3 yourself.

4 (No video for plaintiff.)

5 THE COURT: We may be at the point of perhaps taking
6 the testimony of other witnesses.

7 MR. SUNDARAN: That's fine, Your Honor. I don't
8 have too much more to go.

9 THE COURT: Okay. Let's try to get through the rest
10 of this. I'm not sure it's all that fruitful at this point,
11 or necessary.

12 MR. SUNDARAN: I understand.

13 THE COURT: I mean, it's not your fault at all.
14 Just the challenges.

15 MR. SUNDARAN: Next witness is Mr. Kandkhorov.

16 THE COURT: Let's wait. We have lost his lawyer as
17 well.

18 UNIDENTIFIED SPEAKER: Can you hear us, Your Honor?

19 THE COURT: We can hear you. We can't see you.

20 I think at this point, though, what we are going to
21 do is perhaps interrupt Mr. Heaston's testimony, and as long
22 as you can hear --

23 MS. SHIN: Judge Chen, I apologize. That is
24 actually our witness, and his attorney that just spoke. I
25 apologize.

1 THE COURT: Okay. Thank you. Okay. All right.

2 So --

3 Mr. Heaston, can you hear us?

4 (No sound or video from plaintiff.)

5 THE COURT: Mr. Heaston?

6 UNIDENTIFIED SPEAKER: Hello? Can you hear me now?

7 THE COURT: Who is that? Mr. Sullivan, are you --

8 MR. SULLIVAN: It's another device.

9 THE COURT: I'm sorry. Is that you, Mr. Sullivan?

10 MR. SULLIVAN: I'm trying to use a different --

11 MR. PAWAR: Should I just come back, judge?

12 THE COURT: Yes. Come back, Mr. Pawar, in 15, just
13 before your other conference.

14 MR. PAWAR: Judge, I apologize.

15 THE COURT: Go ahead, Mr. Pawar.

16 MR. PAWAR: So, judge, my conference is at 2:45.

17 THE COURT: Yes.

18 MR. SULLIVAN: I had to testify before Mr. Blossner.
19 If it's okay, I don't think my conference will be more than
20 ten, fifteen minutes. So can I check back in at 3 o'clock
21 with Mr. Blossner?

22 THE COURT: Yes. Why don't we do that. We will
23 take you out of order, if need be.

24 Mr. Sundaran, can you continue with someone else
25 besides either Mr. Pawar or Mr. Blossner?

1 MR. SUNDARAN: Yes, Your Honor. We have
2 Mr. Kandkhorov and Ms. Davoudi, two other witnesses.

3 MR. PAWAR: So I will come back at 3 o'clock?

4 THE COURT: Yes, sir. Come back as soon as you are
5 done with your conference, and check in.

6 MR. PAWAR: Okay. Thank you.

7 THE COURT: Mr. Sullivan, can you hear us?

8 Mr. Sullivan, can you hear us?

9 MR. SULLIVAN: Yes.

10 THE COURT: Okay. Good. Where is Mr. Heaston?

11 (Plaintiff's screen is frozen.)

12 MR. SUNDARAN: Your Honor, maybe I can proceed with
13 the next witness while they work out their technology issues.

14 THE COURT: Yes. Although Mr. Sullivan and his
15 client have a right to hear and see. So we have to wait for
16 them, in any event.

17 I am having my doubts about whether or not we are
18 going to be able to proceed in this fashion.

19 Mr. Sullivan, I think that you may just have to call
20 in and listen, if you can't actually get your video to work
21 properly, because we can't keep waiting.

22 (Pause.)

23 THE COURT: Mr. Sullivan, we are going to do this.
24 Can you hear me?

25 (No video or sound from plaintiff.)

1 THE COURT: If Mr. Sullivan gets back on the line,
2 I'm going to tell him to switch to phone and listen in because
3 this is not working, and we will deal with Mr. Heaston's
4 testimony later. Unless, Mr. Sundaran, you have decided you
5 have what you need, and we can just move on.

6 MR. SUNDARAN: Your Honor, I am ten -- five minutes,
7 seven minutes from completion. I just wanted to lay out a few
8 more foundational questions, and I think no more than five to
9 seven minutes.

10 THE COURT: All right. Well, I will let you do that
11 by phone, if necessary, because the only consequence of that
12 is I won't see Mr. Heaston; but I feel like I have had
13 sufficient opportunity to observe him.

14 Let's see if he gets back on.

15 MR. SUNDARAN: Your Honor, if I may ask a procedural
16 question. I just want to know whether Defendants' Exhibit 0
17 is in evidence, the notice of claim.

18 THE COURT: I don't believe that was one of the ones
19 you moved.

20 MR. SUNDARAN: Okay.

21 THE COURT: Fida, correct me if I'm wrong.

22 THE COURTRoom DEPUTY: Say that again, judge,
23 please.

24 THE COURT: Mr. Sundaran wants to know if 0 was
25 admitted.

1 THE COURTROOM DEPUTY: I don't have that.

2 THE COURT: Yes. Okay. So when we go back on the
3 record you can move for the admission of O, because I think we
4 skipped and went to Q.

5 MR. SUNDARAN: Yes. Should we wait for Mr. Sullivan
6 to get back on?

7 THE COURT: Yes. Let's wait for Mr. Sullivan.

8 (Pause.)

9 THE COURT: Fida, is there any way to call him on
10 the phone and just tell him to connect by phone rather than
11 attempting video?

12 THE COURTROOM DEPUTY: I will try the phone number
13 on the docket sheet.

14 THE COURT: Yes. I'm sorry.

15 (Pause.)

16 THE COURT: Okay. Mr. Sullivan, here is what I
17 suggest. If we lose contact with you again, I want you just
18 to call back on your phone and participate in this conference
19 via phone, because your video is too unstable. It's causing
20 too much delay.

21 So Mr. Sundaran is going to try to finish his exam
22 of Mr. Heaston, but, if we lose you, just come back into the
23 conference via your phone; and we will just hear you but not
24 see you. Okay?

25 MR. SULLIVAN: Very well.

1 THE COURT: Go ahead, Mr. Sundaran.

2 THE COURTRoom DEPUTY: I'm sorry to interrupt, Judge
3 Chen. I gave Mr. Sullivan the phone number earlier, before
4 the proceeding started. I would like to repeat it just in
5 case he doesn't have it handy.

6 THE COURT: Yes. Go ahead.

7 THE COURTRoom DEPUTY: The phone number is
8 571-353-2300. The access code is 038106492. Go ahead.

9 THE COURT: Okay. Go ahead, Mr. Sundaran.

10 MR. SUNDARAN: Thank you, Your Honor.

11 BY MR. SUNDARAN:

12 Q Mr. Heaston, did you verify or swear out the notice of
13 claim in connection with your accident against the City of New
14 York?

15 A Yes.

16 Q In that notice of claim did you allege physical injuries?

17 A Somewhat.

18 Q Specifically, did you claim in your notice of claim dated
19 May 8, 2019, did you claim injuries to your body, head, neck,
20 eyes, ears, mouth, face, arms, legs, nerves, and nervous
21 system?

22 A No.

23 Q Did you sign the document?

24 A I signed the document.

25 Q Did you read it before you signed it?

1 A No.

2 Q So you signed your sworn-to notice of claim without
3 reading it?

4 A Yes. I don't even -- I only signed one piece of paper
5 and gave it to him. He brought me one piece of paper. I
6 signed it, and it was the front, the paper where it needs the
7 signature.

8 MR. SUNDARAN: Ms. Shin, can you please put up
9 Defendants' Exhibit 0, please.

10 Your Honor, I would like to offer this into
11 evidence.

12 THE COURT: Yes, 0 is admitted.

13 (Defendants' Exhibit 0 so marked and received in
14 evidence.)

15 (Published.)

16 Q Can you see that?

17 A May 10, I never even seen that.

18 Q Mr. Heaston, have you seen this document before?

19 A I never seen that, no.

20 Q Can you go to the second page, please.

21 A I signed that part, yeah. Oh, no, that's not my
22 signature. That's not my signature.

23 Q Mr. Heaston --

24 A That's not me.

25 Q On page 2 of this document, is that your name printed?

1 A That's my signature.

2 THE COURT: Mr. Pawar (sic), you need to step away
3 from the witness.

4 Mr. Heaston, no question is posed right now. So
5 wait a second. Stop speaking. Okay. Wait for Mr. Sundaran
6 to pose a question. Do you hear me, Mr. Heaston?

7 Okay. Go ahead, Mr. Sundaran.

8 BY MR. SUNDARAN:

9 Q Mr. Heaston, is that your name printed on the upper
10 right-hand side?

11 A The only thing I seen was the back part of it.

12 THE COURT: Mr. Heaston, you have to do two things.
13 Stop talking to your lawyer during your testimony, and listen
14 to Mr. Sundaran's question and only answer his question.
15 Okay.

16 Go ahead, Mr. Sundaran.

17 BY MR. SUNDARAN:

18 Q Mr. Heaston, is that your name printed on the upper
19 right-hand side of the page?

20 THE WITNESS: Hello?

21 MR. SUNDARAN: Yes.

22 THE COURT: Mr. Sundaran, why don't you move on to
23 the signatures.

24 THE WITNESS: I can't hear no more. I can't hear
25 him.

1 MR. SUNDARAN: Mr. Heaston?

2 (No video for plaintiff.)

3 MR. SUNDARAN: I can go with the next witness, Your
4 Honor.

5 THE WITNESS: Yeah. I'm here, I'm here.

6 Q Mr. Heaston, on the bottom right-hand side of the page
7 that you are looking at, is that your signature?

8 A Yes. That's the page I signed, yes.

9 THE COURT: So the record is clear, above where it
10 says "Claimant"; is that right?

11 THE WITNESS: Yes.

12 THE COURT: Go ahead, Mr. Sundaran.

13 Q That is your signature?

14 A Yes. That's the piece of paper I signed. That's the
15 only piece of paper that was put for me to sign.

16 Q And in that verification, it says that you read the
17 foregoing notice of claim and know the contents thereof and
18 that the same is true to your knowledge, correct?

19 A I'm not understanding your question.

20 Q The verification says that you read the notice of claim
21 and you believe the contents to be true, correct?

22 A I'm going to plead the Fifth.

23 THE COURT: Let me ask one question. I'm sorry.

24 How much money were you seeking, Mr. Heaston, from
25 this claim, do you know?

1 THE WITNESS: I didn't have a monetary amount. The
2 day I left, he said that -- I think on the front of the piece
3 of paper it says \$1 million. And then I heard him change. I
4 heard it was two. I knew -- I don't want -- I didn't come to
5 him with a money value. I signed papers, and then he gave me
6 something that said a million dollars. At the end of it, it
7 was a one with zeros, and that's it.

8 But then the -- in June, when he said -- it was
9 August -- no, June was the payment. I Googled it.

10 THE COURT: So you knew at the time you signed this
11 form that it was asking for a million dollars; is that right?

12 THE WITNESS: Not at the moment. When I went home I
13 Googled the -- that piece of paper, and at the top -- well, at
14 the top it says \$1 million. So I found out maybe two days
15 later. No monetary amount when I first signed this.

16 THE COURT: So you had a copy of this paper we have
17 marked as Exhibit 0 and took it home with you; is that right?

18 THE WITNESS: I'm not sure. Those specific
19 papers -- from my lawyers, like what is that? Like I don't
20 know I have a copy of it. There is only one piece of paper,
21 and the rest were it's like --

22 THE COURT: I'm sorry. There was only one piece of
23 paper and what? There was only one piece of paper and?

24 THE WITNESS: I said, I think it was like -- it was
25 some papers from his office.

1 THE COURT: All right. Go ahead, Mr. Sundaran.

2 BY MR. SUNDARAN:

3 Q Mr. Heaston, looking at paragraph four, do you see the
4 words injury to your body, head, neck, eyes, ears, mouth,
5 face, arms, legs, nerves, and nervous system?

6 A I'm going to plead the Fifth. I don't know what was in
7 the complaint. I didn't read what was in the complaint.

8 Q In this document, Defendants' Exhibit 0, do you see those
9 stated injuries in paragraph four?

10 A Paragraph four?

11 Q Yes.

12 A Yes, I see them. I mean, I had injury to my legs, my
13 arms, and my wrists. That's what I told Vik.

14 Q And do you see other injuries that are listed in that
15 category?

16 A This is the first time I'm seeing, yes.

17 Q Are you saying that the other injuries were not
18 authorized by you to be on this document?

19 A I plead the Fifth Amendment. I don't know.

20 Q Mr. Heaston?

21 A Yes?

22 Q When you signed this document, did you read paragraph
23 four, which listed your claimed injuries?

24 A I'm not sure what I read or what I signed, honestly, with
25 Vik. This was last year.

1 Q Did you read or see that you were -- that a claim for a
2 million dollars was being sought on your behalf?

3 A I read that part, yes.

4 Q Did you get a million dollars from the City?

5 A No.

6 Q At the time that you sat for your 50-H hearing, you were
7 made aware that there was a lawsuit that was filed, correct?

8 A No.

9 Q Mr. Heaston, you appeared for a 50-H on November 13,
10 2019, correct?

11 A Yeah.

12 Q Sometime in November of 2019?

13 A Yes.

14 Q And whenever it is that you were sent the complaint, you
15 noticed that there were two complaints filed in October of
16 2019, correct?

17 A I didn't notice anything.

18 Q You accepted settlement money after you sat for your
19 50-H, correct?

20 A Plead the Fifth. Yes. I mean --

21 MR. SUNDARAN: Your Honor, if I could just ask for
22 the answer to be struck.

23 THE COURT: Yes. Mr. Sullivan, you cannot
24 communicate with Mr. Heaston while he is on the stand. I
25 can't be more emphatic about it. If you need to go to another

1 room, go to another room.

2 MR. SULLIVAN: My only concern is the Fifth
3 Amendment.

4 THE COURT: I don't care what your concern is. You
5 can't be -- hey, listen to me. You can't be talking to your
6 client while he is on the stand. Do you understand? This is
7 a hearing. So back off and sit somewhere else and stop
8 talking to him.

9 THE COURT REPORTER: I can't hear Mr. Sullivan.

10 THE WITNESS: He said he is leaving the room.

11 THE COURT: Good. Let's move on.

12 MR. SUNDARAN: Ms. Shin, can you put up Defendants'
13 Exhibits R1 through R8 for identification.

14 BY MR. SUNDARAN:

15 Q Mr. Heaston, I'm going to ask that you look at these
16 photos, Defendants' Exhibits R1 through R8, and tell me if you
17 recognize them.

18 THE COURT: Ms. Shin, if you can -- go ahead. I was
19 going to say enlarge them. They are hard to see.

20 MR. SUNDARAN: Ms. Shin, can you enlarge them?

21 THE COURT: Thank you.

22 (Published.)

23 Q Mr. Heaston, Defendants' R1, do you recognize anyone in
24 the photo?

25 A I plead the Fifth.

1 MR. SUNDARAN: Mr. Shin, if you can go to
2 Defendants' Exhibit R2.

3 Q Same question: Do you recognize anyone in the photo?
4 A Plead the Fifth.

5 Q Same question: Do you recognize anyone in the photo?
6 A Plead the Fifth.

7 Q Mr. Heaston, do you recognize anyone in this photo,
8 Defendants' Exhibit R4?

9 A Plead the Fifth.

10 MR. SUNDARAN: Wait. Ms. Shin, don't scroll down
11 yet. Can you go back.

12 Q Mr. Heaston, who is the individual's name that appears on
13 the top of that page?

14 Does that say Salim Blake?

15 A I plead the Fifth.

16 MR. SUNDARAN: Next photo, Ms. Shin. You can skip
17 that. Next photo.

18 Q Mr. Heaston, do you recognize any of the individuals in
19 this photo?

20 A Plead the Fifth.

21 Q Does Salim Blake's name appear on this photograph?

22 A Plead the Fifth.

23 MR. SUNDARAN: Next exhibit, Ms. Shin.

24 Q Mr. Heaston, again, do you recognize anyone in this
25 photograph?

1 A Plead the Fifth Amendment.

2 Q Do you see Salim Blake's name on that photo, R7?

3 A Plead the Fifth Amendment.

4 MR. SUNDARAN: Next image, Ms. Shin.

5 Q Defendants' R8, do you recognize any of the individuals
6 in this photo?

7 A Plead the Fifth.

8 Q Do you see Salim Blake's name appear on this photo?

9 A Plead the Fifth.

10 Q Mr. Heaston, are you aware that Salim Blake was not the
11 owner of Borris, Inc., correct?

12 A Plead the Fifth.

13 Q You were aware that Salim Blake was not living or had a
14 business at 84-21 Chapin Parkway, correct?

15 A Plead the Fifth.

16 Q Mr. Heaston, did you file an affidavit in opposition in
17 connection with defendants' sanctions motion?

18 A Repeat that again.

19 Q Did you file an affidavit in connection with defendants'
20 sanctions motion against you?

21 A Plead the Fifth.

22 Q Did you tell Mr. Pawar, Mr. Heaston, to withdraw your
23 lawsuit?

24 A Yes.

25 Q According to you, Mr. Pawar withdrew as counsel, correct?

1 A I mean, according to me or according to Pawar?

2 Q According to you, you asked Mr. Pawar to withdraw your
3 lawsuit, correct?

4 A Mr. Pawar asked me if I wanted to withdraw my lawsuit.

5 Q Did you authorize him to withdraw your lawsuit?

6 A Yes. I said, I don't care, you can withdraw it.

7 Q You are aware that -- you are alleging that Mr. Pawar
8 simply withdrew as counsel, correct?

9 A Yes.

10 Q Did you have any conversations with Mr. Pawar as to why
11 he withdrew as counsel?

12 A No. He said that technically he's already not my lawyer,
13 he can't speak to me.

14 Q Just so that the record is abundantly clear, you are
15 claiming up until the time that Mr. Pawar, according to
16 your -- strike that.

17 According to your affidavit that you filed, you were
18 completely unaware of this lawsuit until you got copies of
19 this complaint, correct?

20 A I didn't say I was unaware of the lawsuit. I was unaware
21 of the complaint, what was said in it, the complaints, when
22 they were amended.

23 Q Mr. Heaston, paragraph eight of your complaint, you claim
24 that you were not aware that an actual lawsuit has been filed,
25 correct?

1 A Yeah, I did. I don't know when the lawsuit was filed. I
2 don't know when it was in court. So I was expected to come to
3 a hearing in -- the end of last year, going into the new year.
4 He would tell me I had to show up for court and things like
5 that.

6 There was nothing until he sent me money, and then
7 in August he said -- he asked me if I knew in particular
8 anybody, and then -- but everything in this case is --

9 THE COURT REPORTER: Your Honor, he is cutting in
10 and out. I'm having a hard time understanding.

11 A (Continuing) Every time I asked something going on with
12 the case, he said nothing to tell you about, I will let you
13 know.

14 Q Mr. Heaston, when Mr. Pawar sent you the complaints in
15 this lawsuit, is that the first time you became aware of it,
16 yes or no?

17 A That's the first time I became aware of the complaint and
18 what was in the complaint, that, yes.

19 Q And when you became aware of the statements in the
20 complaint, did you take any steps to correct it?

21 A Plead the Fifth.

22 MR. SUNDARAN: Your Honor, if I can just have one
23 minute, I just want to quickly confer with my co-counsel, and
24 then I can finish up with this witness.

25 THE COURT: Okay.

1 (Pause.)

2 MR. SUNDARAN: Nothing further, Your Honor, for this
3 witness.

4 THE COURT: Okay. Let's have Mr. Sullivan come back
5 in the room, although now that I think about him leaving the
6 room, it's perhaps not good if he didn't hear what happened,
7 but I guess that was his choice. All right.

8 Mr. Sullivan, do you have any questions of
9 Mr. Heaston?

10 MR. SULLIVAN: Yes.

11 MS. SHIN: Just a minute. I think -- are plaintiff
12 and his attorney on two different lines?

13 MR. SULLIVAN: No.

14 MS. SHIN: I think that might be causing the echo.
15 I just wanted to make sure.

16 THE COURT: Does someone have a phone on while the
17 computer is also on? Because if you have your phone connected
18 as well as your computer, you need to mute your computer.

19 MR. SULLIVAN: No.

20 THE COURT: Okay. So go ahead and ask your
21 questions, Mr. Sullivan.

22 CROSS-EXAMINATION

23 BY MR. SULLIVAN:

24 Q How did you come to meet -- are we hearing each other?

25 THE COURT: Yes.

1 THE WITNESS: Hello? Hello?

2 THE COURT: We can hear you.

3 THE WITNESS: Is there audio? Hello? Can you guys
4 hear us? You can hear us? We can't hear you, though. Can
5 someone talk?

6 THE COURT: Okay. You need to fix it.

7 (Pause.)

8 THE COURT: Let's have our detective, actually.
9 Detective, do you mind turning -- leaving the room or turning
10 your mic, your microphone -- your speaker off. Sorry. Okay.

11 Go ahead, Mr. Sullivan.

12 MR. SULLIVAN: Hello?

13 THE COURT: Yes. Mr. Sullivan?

14 MR. SULLIVAN: Yes.

15 BY MR. SULLIVAN:

16 Q Mr. Heaston, how did you come to meet your attorney Vik
17 Pawar?

18 A Through a friend of his or, I guess, a friend of his. I
19 called a lawyer, a number I got off of -- I think it was like
20 a light post. I called a number I got off of a light post for
21 a lawyer, and I just called him and told him what happened and
22 I asked him how would I go about getting my belongings; and he
23 took my paperwork that was from like the court system and
24 started something.

25 He said I have someone I want you to talk to. His

1 name is Vik Pawar.

2 MR. PAWAR: Judge, I'm here.

3 A (Continuing) He called Vik.

4 MR. PAWAR: Judge, I'm here.

5 THE COURT: Oh, Mr. Pawar. Yes. We need to have
6 you leave.

7 MR. PAWAR: Right. So Your Honor said to come back
8 when the conference was over, so I did. So just give me a
9 time, and I will come back on.

10 THE COURT: Right. 3:15. I'm sorry to keep doing
11 this to you. Thank you.

12 MR. PAWAR: No problem. Thank you.

13 THE COURT: Go ahead, Mr. Sullivan.

14 BY MR. SULLIVAN:

15 Q You were explaining -- go ahead, Mr. Heaston.

16 THE COURT REPORTER: I didn't hear what Mr. Sullivan
17 asked. I'm sorry.

18 THE COURT: He said you were explaining, and then he
19 fell off. Go ahead, Mr. Heaston.

20 BY MR. SULLIVAN:

21 Q Can you tell us how you met Mr. Pawar.

22 THE COURT: Hang on, hang on, hang on. He was
23 explaining how he met Vikrant Pawar, or Vik Pawar. Go ahead.

24 A Yes. So I got a number, this number for like for a
25 lawyer about -- like, I just wanted to get my stuff that was

1 left there. Like I had a cable box, stuff that was at that
2 premises.

3 Long story short, I want to get things; and I called
4 him and he said you might have another case. You need to
5 speak to my friend. I said okay. So he called Vik, and to me
6 Vik was, you know, like he was a little rude. So I said, no,
7 I'm not going over there; and Vik -- like they hung up the
8 phone, and he called Vik back and we had a conversation, and
9 then Vik was like, okay, walk the guy over here.

10 So all along I was like, ah, I told him I don't
11 really want to go. He said, no, just trust me. I want to
12 introduce you. Let him take a look at your paperwork, stuff
13 like that.

14 THE COURT: I'm going to stop you. This is not
15 particularly relevant, but let me ask you a question.

16 You said you wanted to get your possessions. Where
17 were they?

18 THE WITNESS: I don't know. I had got arrested. So
19 when I got arrested.

20 THE COURT: I see. So it was because you got
21 arrested you lost your possessions; is that right?

22 THE WITNESS: Missing some things. I was missing --

23 THE COURT: Hang on. Your affidavit that said your
24 possessions that were in the premises when I was arrested.

25 What premises was that?

1 THE WITNESS: That was 84 Chapin.

2 THE COURT: 84-21 Chapin Parkway?

3 THE WITNESS: Uh-huh.

4 THE COURT: So your belongings were in that
5 apartment?

6 THE WITNESS: Plead my Fifth Amendment.

7 THE COURT: All right. Go ahead. But your
8 affidavit said you called Mr. Pawar about getting your
9 possessions from the 84-21 Chapin Parkway apartment; is that
10 correct?

11 THE WITNESS: No, no. I didn't call Mr. Pawar. I
12 was introduced to Mr. Pawar.

13 THE COURT: Okay. Sorry. But what did you ask
14 Mr. Pawar to do when you met him?

15 THE WITNESS: I told him -- I just told him -- I
16 didn't even ask Pawar. I was -- it was an older guy, like
17 Rosenberg or something his name was. I don't remember his
18 name, but I just told him I was arrested and how do I get some
19 things that I had; and, long story short, he looked at my
20 paperwork. He said I think you should just talk to my friend.

21 THE COURT: Hang on, hang on, hang on. Things of
22 yours, where were they?

23 THE WITNESS: I plead my Fifth Amendment.

24 THE COURT: Okay. Go ahead, Mr. Sullivan.

25 Continue.

1 BY MR. SULLIVAN:

2 Q Mr. Heaston, after speaking -- did the other attorney
3 bring you to Mr. Pawar's office?

4 A Yes. He walked me to Mr. Pawar's office.

5 Q About how long did you spend with Mr. Pawar?

6 A I was there maybe 25 minutes, 30 minutes.

7 Q You indicated that you signed a document, a notice of
8 claim.

9 Was it in that visit that you signed it?

10 A Yes.

11 Q And other than signing that document, do you not recall
12 if you signed a retainer, if you know?

13 A I don't recall. I don't. I just signed that piece of
14 paper and gave that piece of paper to him when I left.

15 Q And was any amount stated as to any amount that you were
16 suing for; was there any discussion like that?

17 A We honestly didn't discuss it, but I later on saw it on
18 the paperwork. Two days later, when I got home I saw it.

19 Q That was the \$1 million in the notice of claim?

20 A Yes.

21 Q Subsequent to that, after that time, before the
22 withdrawal of Mr. Pawar, did you ever receive any documents in
23 the mail, by e-mail, or in any other way from Mr. Pawar?

24 A I have never received no e-mail, no mail, or anything
25 from Mr. Vik Pawar.

1 Q How about the check, the settlement check of \$3,000?

2 A Yeah. Well, yeah, he sent that to another -- he didn't
3 send it to my home address. He sent that to somewhere to be
4 held up. He sent me that, yeah.

5 Q Okay. Other than the check -- by the way, when you got
6 the check for the \$3,000 --

7 A Two.

8 Q For \$2,000, did you know exactly what that was for?

9 A No. I asked him what it was for. He was like one of the
10 cases settled. I mean, he said one of the defendants settled.
11 He didn't tell me who. I didn't know where it came from.

12 I asked him, is it more. He was like, don't worry
13 about it. He just -- it came, he said he had to do it from
14 his checking account. So he wrote a check from his checking
15 account.

16 Q And the complaint that you got from Mr. Pawar, when you
17 got it filed, had you ever seen those before?

18 A No. That was the first time I ever seen anything about
19 this case physically, period.

20 Q Now, you mentioned something about \$2 million, that you
21 realized it was two million.

22 How did you find that out?

23 A Well, their witness told my sister that, oh, he got
24 \$2 million. That's it, because he supposedly Googled PACER or
25 something like that.

1 Q And when you met with -- when Mr. Pawar -- at some point
2 Mr. Pawar advised you about allegations to be made against you
3 by your -- by this lady, Margaret Kirkland?

4 A Said what?

5 Q Did he advise you of some allegations being made by her?

6 A By Margaret?

7 Q Yes.

8 A It's like, boom, he just asked me who was that. I told
9 him who that was, to my knowledge.

10 Q Now, now after that time, when was the next time that you
11 spoke with Mr. Pawar?

12 A Somewhere in early August, when he asked me. He said, do
13 I want to withdraw the case or keep going by myself; and I
14 told him I can't keep going by myself. I don't know what's
15 going on. So it's withdraw the case.

16 Then I heard later from -- days later, with an
17 e-mail, that said he was going to withdraw from the case.

18 Q Prior to that, did you receive e-mails from Mr. Pawar?

19 A No. I haven't received e-mails.

20 Q After that, did you come to see me about Vik?

21 A I came to see you because Vik said that after he did
22 another lawyer and maybe somebody that practiced criminal. I
23 said, what do you mean. He said that's what I have to tell
24 you. I can call you on.

25 Q After consulting with me, did you authorize me to

1 withdraw your lawsuit?

2 A Yes. I authorized Vik to.

3 Q What was the -- how did you authorize Vik to --

4 THE COURT REPORTER: I'm having a hard time
5 understanding, Your Honor.

6 THE COURT: He said, how did you authorize him, Vik,
7 to withdraw your lawsuit.

8 A I told him verbally and by text. He called me that last
9 day in August, and he just led me on. He said I'm going to
10 send you paperwork by e-mail in a few, and then it came in
11 like the next day.

12 Q You said you texted him?

13 A Yes.

14 Q And did you authorize the withdrawal of the lawsuit in
15 the text?

16 A Yes. I told him numerous times. I texted to dismiss it,
17 but he just kept asking me who this person was.

18 MR. SULLIVAN: I have nothing further, judge.

19 THE COURT: Okay. Mr. Sundaran, I'm going to
20 interrupt what I presume will be your redirect, but to ask
21 some questions.

22 Mr. Heaston, you went to Mr. Pawar because you
23 wanted to get your possessions back from the premises,
24 correct?

25 THE WITNESS: I actually went to Mr. Pawar for the

1 other, maybe he suggested that I --

2 Q The other guy suggested you might have a case, right?

3 A He suggested -- he didn't even know -- he highly advised
4 me to talk to this particular lawyer, he is my friend.

5 THE COURT: Okay. Enough. That's good.

6 What did you tell Mr. Pawar about your situation?

7 THE WITNESS: I got there. I gave him the -- the
8 guy explained to him. He asked me, and I told him about where
9 I was living and I told him that I got arrested; and he asked
10 me do I have anything from central booking, something like
11 that.

12 THE COURT: Stop for a second. Where did you tell
13 him you were living?

14 THE WITNESS: You said what?

15 THE COURT: Where did you tell him you were living?

16 THE WITNESS: I didn't hear you.

17 THE COURT: Where did you say you were living?

18 THE WITNESS: Okay. I mean, I plead the Fifth. We
19 didn't discuss it.

20 THE COURT: Okay. So you told Mr. Pawar you were
21 living somewhere, but you won't say where.

22 And then what else did you say?

23 THE WITNESS: You said what?

24 THE COURT: You said you told Mr. Pawar that you
25 were living somewhere, though you won't give the address; and

1 then you stated --

2 THE WITNESS: Where was I living, with all
3 respect --

4 THE COURT: Okay. A moment ago, sir, you said, I
5 told Mr. Pawar I was living somewhere and I got arrested. The
6 record is what it is.

7 But, Mr. Heaston, what else did you tell Mr. Pawar
8 that, according to your own affidavit, caused Mr. Pawar to say
9 you could have a good false arrest claim? What did you say
10 about the circumstances of your arrest?

11 THE WITNESS: I said I got arrested, and the judge
12 didn't see me. They let me out the back of central booking at
13 2:45 a.m. in the morning.

14 THE COURT: Hang on. What did you tell Mr. Pawar
15 happened before you got arrested?

16 THE WITNESS: You mean -- I told him I got arrested
17 and I just told him I got arrested and the prosecutor didn't
18 prosecute me.

19 THE COURT: Okay. Where did you tell Mr. Pawar you
20 got arrested?

21 THE WITNESS: I told him I got arrested in 84-21
22 Chapin.

23 THE COURT: Inside or outside?

24 THE WITNESS: I was outside the premises.

25 THE COURT: You were outside?

1 THE WITNESS: Yes. I called the police, and I was
2 standing outside when they came.

3 THE COURT: When you called the police, what did you
4 say?

5 THE WITNESS: I told them I wanted to make a report;
6 but this is -- you are going back into, as in -- I plead the
7 Fifth. I don't understand that.

8 THE COURT: Did you call the police to tell them
9 that you had belongings in 84-21 Chapin Parkway?

10 THE WITNESS: Plead the Fifth.

11 THE COURT: Okay. But the police responded to that
12 address, and you were outside the apartment, correct?

13 THE WITNESS: Yes.

14 THE COURT: Okay. You are answering that you were.
15 Is that what you told Mr. Pawar happened?

16 THE WITNESS: I mean, I didn't really tell -- that's
17 what I'm trying to say. I didn't really tell Mr. Pawar
18 anything. He spoke to his friend. I told the guy. I told --
19 his name was like Rosenberg. I told him everything. That's
20 what I was saying, like I was in his office like an hour. We
21 listened to --

22 THE COURT: Okay. Hang on, hang on, hang on. Stop,
23 stop, stop.

24 So what did you tell Mr. Rosenberg?

25 THE WITNESS: I just told him that I got arrested

1 and they let me out of central booking.

2 THE COURT: Okay. Hang on, hang on.

3 Did you tell Mr. Rosenberg what you were doing just
4 before you got arrested?

5 THE WITNESS: I told him that I'm coming to you
6 because I got arrested, and I need my -- I need to find out
7 how I can get my belongings. That's the reason why I spoke to
8 him.

9 THE COURT: Okay. Did you tell Mr. Rosenberg that
10 you got arrested after you called the police about getting
11 your belongings?

12 THE WITNESS: I didn't call -- I plead the Fifth.

13 THE COURT: But you are saying that whatever you
14 told Mr. Rosenberg was what was communicated to Mr. Pawar; is
15 that right?

16 THE WITNESS: Yes, and then Mr. Pawar looked at all
17 the paperwork, and then he went in the other room and then he
18 came back with paperwork for me to sign. He was like, sign
19 right here, and he said, trust me, I got you on this.

20 THE COURT: Okay. So let me ask you a very direct
21 question, Mr. Heaston.

22 THE WITNESS: When I got --

23 THE COURT: Hang on, hang on. Stop.

24 Did you also tell Mr. Rosenberg that you had
25 belongings in the apartment at 84-21 Chapin Parkway? Did you

1 tell that to Mr. Rosenberg?

2 THE WITNESS: Did I tell him that I had belongings?

3 THE COURT: Yes, that you had possessions in that
4 apartment.

5 THE WITNESS: I plead the Fifth. I don't know what
6 you are --

7 THE COURT: Okay. Did you tell Mr. Rosenberg that
8 the reason the police showed up at that apartment was because
9 you called them about your belongings?

10 THE WITNESS: I plead the Fifth.

11 THE COURT: Okay. Did you tell Mr. Rosenberg that
12 the 84-21 Chapin Parkway was your apartment?

13 THE WITNESS: I plead the Fifth.

14 THE COURT: Did you tell Mr. Rosenberg that the
15 reason that the arrest was bogus was because you were entitled
16 to be inside that apartment at 84-21 Chapin Parkway?

17 THE WITNESS: No.

18 THE COURT: You didn't tell him that you were
19 entitled to be in that apartment?

20 THE WITNESS: I didn't tell him.

21 THE COURT: Do you know why it is -- or let me
22 rephrase that.

23 What's the basis, if you know, of your false arrest
24 claim? Why was it false?

25 THE WITNESS: You have to ask the lawyer.

1 THE COURT: Okay, but do you know anything that you
2 told Mr. Pawar that went into the complaint that says the
3 police falsely arrested you?

4 THE WITNESS: I plead the Fifth. This claim was
5 not -- like, in the claim -- it's not like -- my lawyer made
6 the claim. My lawyer made the claim. Like, I don't even have
7 no idea. I told him some things. I don't want to go too far
8 into it, but --

9 THE COURT: Okay. Mr. Heaston, at any point did you
10 tell either Mr. Rosenberg or Mr. Pawar that you had the right
11 to be inside the apartment at 84-21 Chapin Parkway?

12 THE WITNESS: No, I never said that. They asked me
13 for paperwork. I showed him the paperwork where the judge,
14 where the D.A. declined to prosecute. They asked me for that,
15 and I made multiple copies of that.

16 THE COURT: Did you ever show them the housing court
17 document?

18 THE WITNESS: No, not at that -- I'm not -- I plead
19 the Fifth.

20 THE COURT: At any point did you show Mr. Pawar or
21 give Mr. Pawar or Mr. Rosenberg the housing court document
22 that said you were entitled to be in the apartment at
23 84-21 Chapin Parkway?

24 THE WITNESS: I plead the Fifth.

25 THE COURT: All right. Mr. Sundaran, do you want to

1 ask anything else, based on what I asked or otherwise, as
2 redirect?

3 MR. SUNDARAN: Yes, Your Honor, very briefly.

4 DIRECT EXAMINATION

5 BY MR. SUNDARAN:

6 Q Mr. Heaston, you claim that you were trying to recover
7 some of your belongings.

8 What were those belongings?

9 A I plead the fifth.

10 Q Did those belongings include a Samsung TV?

11 A Plead the Fifth.

12 Q A burgundy leather couch?

13 A Plead the Fifth.

14 Q When the court was referring to Mr. Rosenberg, or
15 Mr. Rosenblatt, do understand that person to be Mr. Blossner,
16 Mr. Vik's law associate?

17 A No. It was not Mr. Blossner.

18 Q Who is Margaret Kirkland?

19 A Plead the Fifth.

20 Q Who is Toi Williams?

21 A Plead the Fifth.

22 Q Are you aware that Ms. Kirkland submitted an affidavit
23 divulging your fraudulent scheme with Salim Blake?

24 MR. SULLIVAN: Objection.

25 THE COURT: Sustained.

1 Q Are you aware that Ms. Kirkland submitted an affidavit
2 disclosing the scheme that you were part of with Mr. Salim
3 Blake?

4 MR. SULLIVAN: Objection.

5 THE COURT: Sustained.

6 Q Are you aware that Ms. Kirkland submitted an affidavit in
7 connection with your relationship to Salim Blake and this
8 case?

9 MR. SULLIVAN: Objection.

10 THE COURT: Sustained. You don't -- don't ask him
11 about other evidence.

12 MR. SUNDARAN: Okay.

13 Q Mr. Heaston, you referenced that you had a home address
14 and the settlement check was mailed to a different address.

15 What was your home address at the time?

16 A Plead the Fifth.

17 Q What was the address that the settlement check was mailed
18 to?

19 A Plead the Fifth.

20 Q What was the amount of the settlement check?

21 A \$2,000.

22 Q What was your understanding as to what that settlement
23 check was for?

24 A Plead the Fifth.

25 Q Mr. Heaston, you dismissed the case after receiving money

1 from Borris, Inc., correct?

2 A Plead the Fifth.

3 Q You dismissed the case after defendant served you with a
4 sanctions motion, correct?

5 A Yes.

6 MR. SUNDARAN: Nothing further, Your Honor.

7 THE COURT: Okay. Thank you. Anything further from
8 you, Mr. Sullivan?

9 MR. SULLIVAN: No, judge.

10 THE COURT: Okay. Do you folks need a five-minute
11 break? I'm only asking this of the lawyers. If not, let's
12 march on.

13 MR. SUNDARAN: I'm fine proceeding on.

14 THE COURT: Let's go with your next witness. Can I
15 suggest that it be Mr. Pawar, if there is a possibility of
16 keeping the detective on hold for a bit?

17 MS. SHIN: Judge --

18 MR. SUNDARAN: I'm sorry. Go ahead.

19 MS. SHIN: Judge, I think there are two witnesses
20 from Borris, Inc. who have been sitting throughout this
21 hearing and waiting. They will be fairly quick, and we can
22 expedite a little bit.

23 THE COURT: Okay. Go ahead. I'm just trying to
24 tell you that I think the most important witnesses are
25 Mr. Pawar and Mr. Heaston; but it's obviously your case. So

1 go ahead.

2 MR. SUNDARAN: I will make it very brief, Your
3 Honor.

4 THE COURT: Go ahead. Okay.

5 MR. SUNDARAN: Your Honor, the defendants call
6 Mr. Vyacheslav Kandkhorov.

7 THE COURT: Please raise your right hand,
8 Mr. Kandkhorov.

9 Fida.

10 V Y A C H E S L A V K A N D K H O R O V ,

11 called as a witness having been first duly
12 sworn/affirmed, was examined and testified as
13 follows:

14 THE COURTRoom DEPUTY: You need to move closer to
15 the microphone so we can hear you.

16 THE WITNESS: Yes, it's true.

17 MR. SULLIVAN: I can't see the person.

18 THE COURTRoom DEPUTY: Please state --

19 THE COURT: Let's dispense with the spelling,
20 assuming that the court reporter has it.

21 Do you have it, Michele?

22 THE COURT REPORTER: I believe I do, Your Honor.

23 THE COURT: Go ahead. You have the witness list,
24 right?

25 THE COURT REPORTER: Yes, I do.

1 THE COURT: All right. Mr. Sullivan, did you say
2 you can't see or hear?

3 MR. SULLIVAN: Whatever was --

4 THE COURT: I don't know what your video screen is
5 looking like, but there is a gentleman very clearly depicted
6 in a video screen, wearing a blue sweatshirt and a blue shirt,
7 it looks like.

8 MR. SULLIVAN: I got it.

9 THE COURT: You may inquire, Mr. Sundaran.

10 DIRECT EXAMINATION

11 BY MR. SUNDARAN:

12 Q Good afternoon, Mr. Kandkhorov.

13 What -- do you own Borris, Inc.?

14 A Yes, I do.

15 Q What is your title or position at Borris, Inc.?

16 A I'm owner and president.

17 Q And how long have you owned Borris, Inc.?

18 A From -- 2017.

19 Q Has Borris, Inc. ever used 84-21 Chapin Parkway as a
20 business address?

21 A Never.

22 Q What type of building or what type of property is
23 84-21 Chapin Parkway?

24 A Residential.

25 Q And are there any records or documents that show that you

1 own that residential premises?

2 A Yeah. We have deed. When we bought it we have a deed.

3 MR. SUNDARAN: Ms. Shin, can you put up Defendants'
4 Exhibit T.

5 For the record, this is Defendants' Exhibit T, as in
6 "Tom."

7 Q Mr. Kandkhorov, do you see the document in front of you?

8 A It disappeared from our screen. We can see it now.

9 (Published.)

10 MR. SUNDARAN: Ms. Shin, if you can scroll to the
11 second page.

12 Q Mr. Kandkhorov, do you see the document in front of you?

13 A It's kind of blurry. Can you increase it a little bit?

14 MR. SUNDARAN: Okay.

15 THE COURT: Similarly -- hang on. I similarly ask
16 Mr. Kandkhorov's lawyer to remain silent and let
17 Mr. Kandkhorov testify. If he can't see something --

18 THE WITNESS: I'm sorry, Your Honor.

19 THE COURT: Yes, I know the format misleads
20 everybody into thinking we are having a conference. Go ahead.

21 BY MR. SUNDARAN:

22 Q Do you now see the document, Mr. Kandkhorov?

23 A Yes, I see.

24 Q Is that the deed that's connected to the property at
25 84-21 Chapin Parkway?

1 THE WITNESS: Can we go up and down a little bit?

2 MR. SUNDARAN: Yes.

3 Ms. Shin, can you please scroll to the end of the
4 document. If you can scroll all the way to the end, Ms. Shin.

5 A Right, it is.

6 MR. SUNDARAN: If you go back to the signature page.
7 All right. Keep going back. I'm sorry. Yeah. Keep going.
8 Keep going.

9 Q Mr. Kandkhorov, is this the referee's deed in connection
10 with the property 84-21 Chapin Parkway?

11 A Yes, yes.

12 MR. SUNDARAN: Your Honor, defendants would like to
13 move this into evidence as Defendants' Exhibit T.

14 THE COURT: Okay. It's admitted.

15 (Defendants' Exhibit T so marked and received in
16 evidence.)

17 Q Just for the record, Mr. Kandkhorov, you purchased this
18 on August 3rd, 2017?

19 A Right.

20 Q Was it certified for occupancy when you purchased it on
21 August 3, 2018?

22 A Just a second. No.

23 (Continued on the next page.)

24

25

1 DIRECT EXAMINATION

2 BY MR. SUNDARAN (Continued):

3 Q When was it certified for occupancy,
4 84-21 Chapin Parkway?

5 A We received C of O on March 28, 2018.

6 Q Thank you.

7 MR. SUNDARAN: Ms. Shin, can you please put up
8 Defendants' Exhibit U for identification?

9 THE COURT: Okay. And while you are doing that,
10 Mr. Kandkhorov, I just want to clarify what you said for the
11 court reporter. You said a CO --

12 THE WITNESS: C of O, certificate of occupancy.

13 Yes.

14 THE COURT: Sorry? Say it again, sir.

15 THE WITNESS: Certificate of occupancy, yes.

16 THE COURT: Okay.

17 Q Mr. Kandkhorov, is --

18 MR. SUNDARAN: Ms. Shin, can you scroll down a
19 little bit?

20 A little bit lower?

21 Q Mr. Kandkhorov, is this the certificate of occupancy you
22 received in connection with 84-21 Chapin Parkway?

23 A Yes.

24 Q All right. The effective date that's on this document on
25 the upper right side is March 28, 2019?

1 A March 28th? Let me see. March 28, 2019, right.

2 Q And that's when you received the certificate of
3 occupancy?

4 A Yes. After renovation, yes.

5 Q And the renovations took place between January and March
6 of 2019?

7 A Renovation, yes.

8 Q Okay. At this point the --

9 A 2017.

10 Q Okay. And it continued through January of 2019, January
11 or February of 2019?

12 A Right.

13 MR. SUNDARAN: Your Honor, at this time defendants
14 would like to move into evidence Defendants' Exhibit U.

15 THE COURT: U is admitted.

16 (Defendants' Exhibit U so marked and received in
17 evidence.)

18 MR. SUNDARAN: And, Ms. Shin, can you --

19 Q Mr. Kandkhorov, did you use an engineering firm to do the
20 renovations in connection with the property?

21 A Yes, we did. Yes, we did.

22 Q What was the name of the engineering firm?

23 A If I'm not mistaken, Bernie -- Barry -- it's -- I have my
24 associate Edna, she runs the business. I am just the owner.

25 Q If I said Barry --

1 A She can tell you.

2 Q If I said Barry J. Bank, do you agree that that was the
3 professional --

4 A Right, right, right, right. Yes.

5 MR. SUNDARAN: Ms. Shin, can you put up Defendants'
6 Exhibit V for identification?

7 THE COURT: Mr. Sundaran, remember we have a court
8 reporter, so go a little slower.

9 MR. SUNDARAN: I apologize, Your Honor. I am
10 rushing in the interest of time, but I will speak slower.

11 Q Mr. Kandkhorov, do you recognize this document?

12 A Yes.

13 Q And what is this document?

14 A This is, they getting a contract with Barry to do our
15 paperwork to present to the City, do all the explanation, what
16 is going to be done. And after all inspections, we apply for
17 certificate of occupancy.

18 Q So this is a --

19 THE COURT: Hang on. So the record is clear, this
20 is Exhibit V, as in Victor?

21 MR. SUNDARAN: It is V as in Victor, Your Honor.

22 THE COURT: Okay. Go ahead.

23 MR. SUNDARAN: Defendants would like to move this
24 into evidence at this time, Your Honor.

25 THE COURT: Okay. V is admitted.

1 (Defendants' Exhibit V so marked and received in
2 evidence.)

3 Q Mr. Kandkhorov, is this the statement of the work that
4 was being done at the premises of 84-21 Chapin Parkway between
5 November 20 --

6 A It's very blurry. I cannot see.

7 Q Sure.

8 MR. SUNDARAN: Ms. Shin, can you enlarge it?

9 Q Is this a statement of the work that was being done by
10 the professional engineer, Barry Bank, between November 2017
11 through January 2019?

12 A Retainer -- yes, yes, yes. Right.

13 THE COURT: Hold on one second, Mr. Sundaran. We
14 may have lost Mr. Sullivan and Mr. Heaston.

15 (Pause.)

16 THE COURT: Okay, there they are again. Okay, go
17 ahead.

18 Q Mr. Kandkhorov, on May 1st, 2019 -- I'm sorry.

19 MR. SUNDARAN: Ms. Shin, can you put up Defendants'
20 Exhibit W for identification?

21 And Ms. Shin, can you enlarge it?

22 THE COURT: Mr. Sullivan, can you mute your phone or
23 computer or whatever it is? Because as the person is marching
24 around, it is creating all sorts of noise.

25 Go ahead, Mr. Sundaran.

1 MR. SUNDARAN: Ms. Shin, can you enlarge the size of
2 this document?

3 Q Mr. Kandkhorov, do you recognize this document?

4 A Again, I'm not involving in details. Edna Davoudi, she
5 will tell you all the details.

6 Q Who is the landlord on this lease?

7 A I am landlord.

8 MR. SUNDARAN: Okay. Ms. Shin, can you go to the
9 second page?

10 Q The signature that appears next to landlord, is that your
11 signature?

12 MR. SULLIVAN: We are not seeing that.

13 A Can we return to the beginning of the lease?

14 Q Sure.

15 MR. SUNDARAN: Ms. Shin, can you go back to the
16 beginning of the lease?

17 THE COURT: Mr. Sullivan, did you say you cannot see
18 the document?

19 (Pause.)

20 THE COURT: Oh, boy.

21 A Okay. Now scroll down the document.

22 THE COURT: Sorry, Mr. Sullivan, it is on the
23 screen. Are you looking at a computer?

24 MR. SULLIVAN: Yes, I am looking, but --

25 MR. HEASTON: It was there earlier. It was there a

1 minute ago.

2 MR. SULLIVAN: The other documents, we saw. The
3 other documents, the previous documents, we saw them. Here,
4 the screen, it just -- the way we're supposed to see the
5 documents, it's just turned blank.

6 THE COURT: Okay. Let me just say --

7 A I recognize --

8 THE COURT: Hang on. Hang on.

9 A I recognize signatures of Kimberly, Jose. They were
10 tenants before, yes. They have --

11 THE COURT: Mr. Kandkhorov.

12 THE WITNESS: Yes.

13 THE COURT: Could you stop speaking for a second?

14 Mr. Sullivan, you received, I assume, copies of the
15 exhibits before today, correct?

16 (Pause.)

17 THE COURT: Mr. Sundaran, we lost Mr. Sullivan for a
18 moment. Did you provide electronic versions of the exhibits
19 to Mr. Sullivan and Mr. Heaston?

20 MR. SUNDARAN: We had provided -- we had filed the
21 exhibits on ECF, Your Honor.

22 THE COURT: Okay. So, Mr. Sullivan, you have access
23 to the exhibits from the docket. This is W. So even if you
24 cannot see it on your screen even though the rest of us can,
25 you should go ahead and refer to what is in the docket and

1 marked as W.

2 MR. SULLIVAN: Okay.

3 THE COURT: Okay. Go ahead, Mr. Kandkhorov. I
4 interrupted you.

5 Q Mr. Kandkhorov, I guess the question is, is this the
6 lease in connection with one of the apartments at
7 84-21 Chapin Parkway?

8 A Correct, yes.

9 Q Is this the lease for the apartment that was broken into?

10 A That I'm not --

11 Q Okay. Who --

12 A I think so, yes.

13 Q Okay. Who are the tenants to this lease?

14 A They were students for the -- which college? It's some
15 of the colleges next to that area.

16 Q Is Ira Heaston one of the tenants listed on this lease?

17 A No, never.

18 Q Is that your signature next to the landlord?

19 A Yes.

20 MR. SUNDARAN: Okay. Ms. Shin, can you go back up
21 for a second?

22 Q And Mr. Kandkhorov, this lease was scheduled to begin --
23 I mean, this lease was signed March 17, 2019?

24 A March 17, 2019? March? In May.

25 Q It was signed. It was signed March 17th?

1 A No.

2 Q Okay. Let me ask you this: When was the lease scheduled
3 to begin?

4 A May 1, 2018.

5 Q And then when was it supposed to end?

6 A One-year lease.

7 Q April 30th, 2020?

8 A Yes.

9 THE COURT: Just so the record is clear --

10 Q Mr. Kandkhorov --

11 THE COURT: Hang on.

12 Just so the record is clear, did you say 2019 or
13 2018?

14 THE WITNESS: Lease started May 1, 2018, one-year
15 lease. So it's April what? 30th, 2019. It's finished, this.

16 THE COURT: Okay. I'm sorry. Mr. Sundaran, I am
17 staring at the document. It says, I believe, May 1, 2019 --

18 MR. SUNDARAN: Yes.

19 THE COURT: -- to April 30th, 2020.

20 MR. SUNDARAN: That is correct, Your Honor. I
21 believe the witness has it wrong.

22 THE WITNESS: Maybe.

23 Q Mr. Kandkhorov, if I told you that the lease began May 1,
24 2019 and ended April 30th, 2020, would you say that's correct?

25 A Yes, most probably. Again, all the details, my associate

1 Edna, she knows. She will -- you can ask her that question to
2 her. She will do it clear.

3 Q And the monthly rent that's on this lease is 2,550,
4 right?

5 A Right.

6 Q On this document.

7 MR. SUNDARAN: Okay. Your Honor, at this point
8 defendants offer Exhibit W into evidence.

9 THE COURT: Okay. It is admitted.

10 (Defendants' Exhibit W so marked and received in
11 evidence.)

12 Q Mr. Kandkhorov, did you ever authorize Ira Heaston to
13 reside in any of the apartments at 84-21 Chapin Parkway?

14 A No, never.

15 Q Did you ever authorize Salim Blake to rent out any
16 apartments at 84-21 --

17 A Never. I don't know even those people.

18 Q So your testimony is you don't know Ira Heaston or Salim
19 Blake?

20 A At all.

21 Q And is it fair to say that you first learned of who Salim
22 Blake and Plaintiff Ira Heaston were when you were sued?

23 MR. SULLIVAN: Objection.

24 A Yes.

25 THE COURT: Overruled.

1 A Yes, it is.

2 MR. SUNDARAN: Your Honor, if I could just have a
3 moment to confer?

4 THE COURT: Yes, go ahead.

5 (Pause.)

6 Q Mr. Kandkhorov, did you settle with the plaintiff?

7 A Yes, we did.

8 Q Why did you settle with the plaintiff?

9 A Because I'm busy man. I cannot go back and forth. I
10 respect my lawyer, but all the retainers will cost me more for
11 them to run this case, the time frame. You know, it's --
12 that's why we decide to settle this and we send a check.

13 Q Did you settle with Mr. Heaston because you believed he
14 had a right to be at the premises 84-21 Chapin Parkway?

15 MR. SULLIVAN: Objection.

16 THE COURT: Overruled.

17 A Say it again?

18 Q Did you settle with Mr. Heaston because you believed he
19 was a rightful tenant at 84-21 Chapin Parkway?

20 A No, of course not. He was never been there. Never.
21 Never, ever.

22 Q Mr. Kandkhorov, would you like your money back, the ones
23 that you paid to Mr. Heaston?

24 A I would love to have, of course. Of course. Because
25 it's not right money.

1 MR. SUNDARAN: I have nothing further of this
2 witness, Your Honor.

3 THE COURT: Okay. Mr. Sullivan.

4 CROSS-EXAMINATION

5 BY MR. SULLIVAN:

6 Q Sir, is it fair to say that the plaintiff --

7 THE COURT: No, no. Mr. Sullivan, no one can hear
8 you.

9 Q Is it your testimony that the plaintiff never -- the
10 premises that we are --

11 THE COURT: Say it again? "Is it your testimony
12 that the plaintiff" -- and that would be Ira Heaston. What is
13 the rest of that sentence? I think you said never occupied?

14 MR. SULLIVAN: Yes.

15 THE COURT: The premises at 84-21 Chapin Parkway?
16 That is the question?

17 MR. SULLIVAN: Yes.

18 THE COURT: Okay. What is the answer?

19 Is it your testimony, sir, that Mr. Heaston never
20 occupied the premises at 84-21 Chapin Parkway?

21 THE WITNESS: Who there? I'm sorry, you asking me?
22 Sorry, sorry.

23 THE COURT: Yes.

24 THE WITNESS: What was the question?

25 THE COURT: Is it your testimony that Mr. Heaston

1 never occupied the premises at 84-21 Chapin Parkway?

2 THE WITNESS: He never occupied legally this
3 apartment, never.

4 THE COURT: Say it again, sir? He never?

5 THE WITNESS: He never occupied this premises,
6 never.

7 Q Well, let me ask, did you ever --

8 THE COURT: We cannot hear you at all, Mr. Sullivan.
9 I do not know what is going on with your audio feed.

10 (Pause.)

11 THE COURT: Oh, boy.

12 MR. SULLIVAN: Hello?

13 THE COURT: Okay. Mr. Sullivan, are you back?

14 MR. SULLIVAN: Can you hear me now?

15 THE COURT: No, you are breaking up. I do not
16 understand what is going on with your connection.

17 MR. SULLIVAN: Hello?

18 THE COURT: Yes, we can hear you. Okay. Go ahead,
19 Mr. Sullivan.

20 Oh, I think you have lost the connection entirely.

21 MR. SULLIVAN: Your Honor?

22 THE COURT: Yes.

23 Q Sir, did you -- the rentals yourself for the premises?

24 THE COURT: Okay. You broke up again, Mr. Sullivan.
25 Can I ask you, are you using a phone, like a video

1 on a phone to do this?

2 MR. SULLIVAN: Yes.

3 THE COURT: You don't have a computer with a
4 microphone on it?

5 No, you are completely breaking up. I don't know
6 what to suggest.

7 MR. SULLIVAN: The computer won't work.

8 THE COURT: Okay. Fida, do you have any thoughts?
9 Should we just have them connect by phone and just skip the
10 video part of it?

11 THE COURTRoom DEPUTY: He would be able to do that,
12 Judge, yes.

13 THE COURT: Okay. So call on the phone,
14 Mr. Sullivan, because you are breaking up. It is impossible
15 to hear you.

16 MR. SULLIVAN: Hello?

17 THE COURT: Okay. Yes, just turn off the video.

18 MR. SULLIVAN: Hello?

19 THE COURT: Yes, we can hear you now.

20 MR. SULLIVAN: Okay.

21 BY MR. SULLIVAN:

22 Q Sir, did you personally handle all the leases and rental
23 to the premises?

24 THE WITNESS: This question is for me?

25 THE COURT: Yes. Yes, these are all questions for

1 you.

2 A Yes, yes.

3 Q And in 2018, there were people living on the first floor,
4 second floor, and third floor? In the year 2018?

5 A May 1st, first floor was rented for nice tenants,
6 students, as I call. Second floor was rented on April 5th.

7 Q Sir, isn't it a fact that before you obtained a
8 certificate of occupancy, the premises were rented?

9 A Never, because it was under construction.

10 Q Now, did you ask the police to arrest Ira Heaston?

11 A Personally, I didn't call. Never. Never, because we
12 have alarm system there. When the alarm went off, the cops
13 went there.

14 Q So you were not present for any of the circumstances that
15 led to the arrest of Ira Heaston; isn't that correct?

16 A Ask it again?

17 Q You were not present for any of the circumstances that
18 led to the arrest of Ira Heaston; isn't that correct?

19 A Present or not present? I don't do resident -- it's
20 maybe Edna, you can ask her this question.

21 Q No, I'm just asking about things that you know. You have
22 no knowledge as to the circumstances that led to the arrest of
23 Ira Heaston, do you?

24 A They did arrest. All details, I don't know. Again, we
25 had alarm system. It was on. When it went off, they on duty,

1 supposed to react on that, and they came.

2 Q No. My question to you is whether you have any personal
3 knowledge whatsoever as to the circumstances that led to the
4 arrest of Ira Heaston.

5 THE COURT: Why don't we try it this way, sir. Were
6 you present when they arrested Mr. Heaston at
7 84-21 Chapin Parkway?

8 THE WITNESS: Physically, I wasn't there. Maybe I
9 came later. You know, because all neighborhood was like, you
10 know, something is going on.

11 THE COURT: Did you see the police there?

12 THE WITNESS: Yes, I saw.

13 THE COURT: Did you see Mr. Heaston?

14 THE WITNESS: No, never.

15 THE COURT: Okay. So you didn't see him being
16 arrested by the police on that day?

17 THE WITNESS: No, not at all.

18 THE COURT: And I have no idea, Mr. Sullivan, what
19 day you are talking about, but I am going to assume it is
20 April 26, 2019.

21 MR. SULLIVAN: Right.

22 Q On April 26, 2019, you were not present at the premises
23 when Ira Heaston was arrested; is that correct?

24 A Never. Again, I came later there.

25 Q Okay. But you didn't see his arrest, right?

1 A The neighbors calling like, you know, to let us know
2 what's going on there, and then we came.

3 Q Okay. So that's how you knew, because a neighbor called
4 you and told you police was at your house, right?

5 A Right.

6 Q Okay. Now, do you recall ever speaking to a D.A., to a
7 prosecutor, a Queens D.A. regarding any charges against
8 Ira Heaston?

9 A Any charges? No.

10 Q "No."

11 MR. SULLIVAN: I have nothing further, Judge.

12 THE COURT: Anything from you, Mr. Sundaran?

13 MR. SUNDARAN: Yes, a couple of followup questions,
14 Your Honor.

15 REDIRECT EXAMINATION

16 BY MR. SUNDARAN:

17 Q Mr. Kandkhorov, were you at the premises
18 84-21 Chapin Parkway on April 4, 2019?

19 A I don't remember the date.

20 Q Okay. Before April 26, 2019, did you speak to the police
21 about a burglary at 84-21 Chapin Parkway?

22 MR. SULLIVAN: Objection; leading.

23 THE COURT: Overruled.

24 A Maybe Edna, my associate, she did. Because it's --

25 MR. SULLIVAN: I would move to strike, Judge, as to

1 why anybody else might have said.

2 THE COURT: Overruled.

3 Move on, Mr. Sundaran.

4 Q Mr. Kandkhorov, did the police speak to you at any time
5 in April of 2019?

6 A Yes, I remember now. Because they -- first of all, they
7 ask who is owner. I remember, yes.

8 Q Did you tell the police you were the owner?

9 A Yes, of course.

10 Q Did they ask you if Mr. Heaston lived at the premises?

11 A No. There was no questions. No names, no nothing.

12 MR. SUNDARAN: Nothing further, Your Honor.

13 THE COURT: Okay. Thank you, Mr. Sundaran.

14 Anything further from you, Mr. Sullivan, for this
15 witness?

16 RECROSS EXAMINATION

17 BY MR. SULLIVAN:

18 Q So it's your testimony, sir, that the police asked you no
19 questions in regard to Ira Heaston; is that correct?

20 A I'm sorry, maybe my understanding not that good. This is
21 how it works. We have alarm. Alarm went off. The police
22 come. We get --

23 Q Sir.

24 A Let me finish.

25 Q My question --

1 A Let me finish. I know, I explain. Let me finish.

2 Alarm went off --

3 Q No, no. No, sir. Sir, I have a very specific question.

4 THE COURT: Mr. Sullivan, let him finish.

5 Go ahead, Mr. Kandkhorov.

6 THE WITNESS: Thank you. Thank you, Your Honor.

7 THE COURT: Yes.

8 A Alarm went on. We got notification. Police was present
9 there. After that, we went there like, what, 15, 20 minutes,
10 you know. And we see every neighbor's there, you know, all
11 the cops there. And this is what we see. They ask who is
12 owner. I approach and I say I am owner. You know, I show the
13 deed. And then did regular routine, whatever they supposed to
14 do.

15 MS. SHIN: That's it.

16 THE COURT: Go ahead, Mr. Sullivan.

17 MR. SULLIVAN: I have nothing further, Judge.

18 THE COURT: Okay. All right. Thank you,
19 Mr. Kandkhorov.

20 THE WITNESS: You're welcome.

21 THE COURT: Call your next witness, Mr. Sundaran.

22 MS. SHIN: Your Honor, we will call Ms. Edna
23 Davoudi.

24 THE COURT: Okay.

25 MR. SULLIVAN: Judge, I cannot see the video, but is

1 that the same lady that was sitting in the -- is she sitting
2 in the same room as this witness? Or who -- I can't see the
3 video, so I don't know.

4 THE COURT: The room which Mr. Kandkhorov sat had
5 only a lawyer with him, a male lawyer.

6 MR. SULLIVAN: Okay, okay.

7 THE COURT: They are going to bring in Ms. Davoudi
8 now.

9 (Pause.)

10 THE COURT: Oh, you know, I erred before by not
11 having Mr. Kandkhorov state his name for the record. But to
12 the lawyers, that was Mr. Kandkhorov; is that right?

13 MR. SUNDARAN: Yes, Your Honor.

14 THE COURT: Well, I guess that is Mr. Sundaran.

15 Let's move on. Let's have Ms. Davoudi raise her
16 right hand.

17 E D N A D A V O U D I ,

18 called as a witness having been first duly
19 sworn/affirmed, was examined and testified as
20 follows:

21 THE COURTRoom DEPUTY: Please state and spell your
22 name for the record.

23 THE WITNESS: Edna Davoudi.

24 THE COURTRoom DEPUTY: Spell your first and last
25 name slowly, please.

1 THE WITNESS: Edna Davoudi.

2 THE COURT: Just spell your name, please.

3 THE WITNESS: Okay. E-d-n-a. Davoudi is
4 D-a-v-o-u-d-i.

5 THE COURT: Okay. Thank you. I think your lawyer
6 is likely more comfortable if you put your mask back on.

7 THE WITNESS: Yes. Just for spelling the name.

8 THE COURT: Yes. Okay, thank you.

9 Go ahead, you may inquire, Ms. Shin.

10 MS. SHIN: Thank you, Your Honor.

11 If I could have everyone mute? There's a lot of
12 feedback.

13 DIRECT EXAMINATION

14 BY MS. SHIN:

15 Q Okay. Ms. Davoudi, what type of business are you in?

16 A Real estate.

17 Q And do you have any ongoing business relationships or
18 partnerships?

19 A Yes, I do.

20 Q And who is that with?

21 A Borris, Inc.

22 Q And what do you do for Borris, Inc.?

23 A Management.

24 Q And when you say management, what specifically do you do
25 in terms of management?

1 A Well, we find them the properties. I find them the
2 properties. We buy them, we renovate them, we rent them
3 after.

4 Q Okay. So is it fair to say that you act as an agent of
5 Borris, Inc.?

6 A Yes.

7 Q And did you ever manage 84-21 Chapin Parkway in Jamaica,
8 New York?

9 A Yes.

10 Q And as a property manager and agent of Borris, Inc., what
11 were your responsibilities with 84-21 Chapin Parkway?

12 A So first I find it, then we bought it. Then we had some
13 people there that we had to evict. So after that, when the
14 permits and everything else was ready, we started construction
15 and we renovated the place. After we finished, we got our
16 certificate of occupancy, we looked for tenants for them and
17 we rented these.

18 Q Okay. And when --

19 (Telephone interruption.)

20 THE WITNESS: I'm sorry. I apologize. Give me one
21 second, let me turn off this.

22 (Pause.)

23 THE WITNESS: Sorry.

24 Q And was the building bought in August of 2017?

25 A Yes.

1 Q And what type of building is 84-21 Chapin Parkway?
2 A So it's a three-level building, you can say. There is
3 three units. First is a walk-in. Then you have, you go up
4 the stairs, there is what we call a first floor. And then
5 this is the subject property with three bedroom, one and a
6 half bathroom. And then you have the second floor, the third
7 floor. The third level, that is a duplex.

8 Q And when you first began managing the property at
9 84-21 Chapin Parkway, was it lawfully occupied?

10 A No.

11 Q Okay. Were there any individuals living there?

12 A Yes, there were squatters there. And we paid them
13 lawfully, asked for key and we got them out.

14 Q And did there come a time when renovations began on the
15 property?

16 A So I think it was around October 2017, right, we started.

17 Q Okay. During the time that the property was undergoing
18 renovations, what were you doing to manage the property?

19 A So I visited the property almost, almost I could say, on
20 a daily basis, every other day. I could not say every day,
21 but every other day I would go there, see all the construction
22 is going on, how everything else is working out. And I was
23 there very often.

24 Q And was there any security system at the property?

25 A So as soon as we got electricity running, we do -- we

1 usually do install alarm systems in our properties because of
2 those events that happens. So we did have alarm in the whole
3 building.

4 Q Okay. And when you say -- so at 84-21 Chapin Parkway,
5 there was an alarm system?

6 A Yes, there was.

7 Q Okay. And was it for the entire building?

8 A So there is three entrances to the building, right? So
9 they put for us sensors in each entrances and then we have
10 motion detectors inside the apartments, so yes.

11 Q And directing your attention to kind of the subject of
12 the lawsuit, the second -- the unit on the second level of the
13 building, when did that unit become occupied?

14 A So that unit officially was occupied May 1st.

15 Q And is that of 2019?

16 A Yes.

17 Q And prior to that, was it vacant?

18 A Yes, it was.

19 Q And how did you know it was vacant?

20 A So, first of all, since I was managing the property, the
21 listing of rental was with us and with my office. I have
22 agents going in there. I was myself there. We used to go,
23 show it, come back. All the time we check on the property.
24 So we been there very often.

25 Q And did you see any furniture or personal belongings

1 before May 1, 2019?

2 A Not at all.

3 Q Did anything -- mm-hm?

4 A The only time, about what was inside the properties, when
5 we had this alarm guy calling me telling me if I put black
6 blinds on the window. That was the only time.

7 Q Okay.

8 A Yes.

9 Q Okay. So speaking about that time, what, if anything,
10 happened on April 4th, 2019?

11 A So you see, the second floor, the third floor you could
12 say, was rented on April 5th. Okay? Usually the alarm system
13 ask us, do you want -- yes?

14 Q I'm just going to ask you to stop.

15 So when you say April 5th, 2019, the second floor
16 unit was due to be rented?

17 A Yes.

18 Q You mean the third level of the property, right?

19 A The third level.

20 So usually the alarm guy says, ask us, can you
21 please let your tenant keep the service? Because this is how
22 he makes his business after giving us the service. And so we
23 ask the tenant. They say no, we are not interested in this,
24 we don't want it. So I called him and I said come and remove
25 the alarm. So, but happened that at the same day we had this

1 incident happening. So I got an e-mail saying that something
2 is going on with the alarm. I was under the impression that
3 my guy is going there to remove it, and actually it was
4 somebody else.

5 MR. SULLIVAN: Objection.

6 Q So on April 4, 2019, did you receive a notification from
7 the security system?

8 A Yes.

9 Q What did you do after receiving the notification?

10 A So I called the office to see if anyone went there and no
11 one was there. But I was thinking it was the alarm guy who
12 was there. So later on during that day, the alarm guy is
13 calling me and he's telling me listen, did you put black
14 blinds on the property in the apartment? I said no. And then
15 he said, I cannot get in because the key we have doesn't go in
16 the lock. Somebody went in, broke in, put those blinds and
17 change all the locks. And this is when we call the cops and
18 the whole thing started there.

19 THE COURT: Ms. Shin, can you have the witness
20 clarify what apartment we are talking about now? Because
21 there has been a discussion of the third floor and the second
22 floor.

23 THE WITNESS: Second floor.

24 MS. SHIN: Yes, Your Honor.

25 Q So, Edna, the apartment that now had blinds up in it, was

1 that the second-level unit or --

2 A Correct.

3 THE COURT: Ms. Shin, hang on. Ms. Shin, be careful
4 of leading or testifying yourself.

5 So which apartment was it that had the blinds?

6 THE WITNESS: The second level.

7 THE COURT: Okay. Go ahead.

8 MS. SHIN: Thank you, Your Honor.

9 Q So after you received the call or after you spoke with
10 the security person, what, if anything, did you do next?

11 A So what we did, we call the cops. I call Steve,
12 Mr. Kandkhorov, the owner, and we went there. And when the
13 cops got there, they said don't touch the door, we don't know
14 who is in there. So they make us, like, go downstairs in the
15 street and we waited. The cops opened the door, they go
16 inside. Then they see nobody is there. They say okay, come
17 inside. We went in. And the only thing was really there was
18 a little bit garbage of the blinds' packaging and the black
19 blinds all over the windows.

20 Q Okay. And prior to April 4, 2019, when was the last time
21 you were in that apartment?

22 A April 3rd. That was the day before.

23 Q And what else was different about that apartment aside
24 from the blinds being there?

25 A So the panel. The panel of the alarm was removed. So he

1 broke the panel.

2 THE COURT: What panel?

3 THE WITNESS: The alarm system panel.

4 Q And what, if anything, was different about the locks?

5 A So he changed all the locks. We could not get in with
6 our keys.

7 Q And were all the locks for the entire building changed?

8 A No. I'll tell you exactly. There is two locks on that
9 subject apartment. One lock is the entrance and one lock is a
10 door going to downstairs. So he changed those two locks.

11 Basically, the two locks that leads to this subject apartment.

12 Q And so did you speak with the police?

13 A Yes, of course. They came, we had a whole report. And
14 actually, we also have a video of it. And that's about it.

15 Q Okay. And did the detective show you anything -- what,
16 if anything, did the detective show you on the night of
17 April 4th, 2019?

18 A He showed me a picture of -- you see it clearly that he's
19 walking the driveway. You see him in the picture. He has the
20 box of those blinds and he's walking. And he show me the
21 picture. He said, do you recognize this gentleman? I said I
22 never saw him in my life.

23 Q Okay. And after that point, did there -- oh, withdrawn.

24 After then, after the police left the premises, did
25 you -- locks to the unit?

1 A I'm sorry, I didn't hear you. Did we change the locks?
2 I didn't hear you well. I'm sorry.

3 Q I'll repeat.

4 After the police left, did you change the locks to
5 the unit?

6 A Yes. We called for to come and change it, yes.

7 Q And did you ever speak with detectives again regarding
8 that burglary complaint?

9 A Yes. After April -- I think it was April 26, 27. I
10 don't recall the exact date, but it was few weeks later
11 because I think this was the second time and then they
12 arrested him.

13 Q Okay. I'm going to turn to the lawsuit.

14 So, when did you first hear the name Ira Heaston?

15 A The first time I saw it is when we saw the federal case.

16 Q Okay. And prior to that, had you ever heard the name Ira
17 Heaston before?

18 A Never. Never.

19 Q Have you ever heard the name -- withdrawn.

20 Prior to this lawsuit, had you ever heard the name
21 Salim Blake?

22 A Never.

23 Q So how did you become aware of this lawsuit?

24 A So apparently one of the tenants had it on the mailbox.
25 And they gave it to Steve or his wife, I don't know to whom,

1 and they came and they told me this is the paper we got. I
2 look at it the very first time, I see federal case. It was
3 very surprising to us. So this is how we find out about it.

4 MS. SHIN: Okay. Judge, I'm just going to seek your
5 permission to publish what is in evidence as Exhibit B.

6 THE COURT: All right. Go ahead.

7 MS. SHIN: Okay. So this is -- I'm showing the
8 witness Exhibit B.

9 Q Do you recognize this as the complaint filed in this
10 case?

11 A Yes.

12 Q Can you see it, Ms. Davoudi?

13 A Yes, I see it. It's not so clear, but I see it. Yes,
14 this is something that we got when we find out about the
15 lawsuit.

16 Q Okay. And what did you do when you found out about the
17 lawsuit?

18 A So, first of all, it came to us as very surprising
19 because it was -- we were just mesmerized. I told -- first I
20 talk to Alex, our attorney. At that time we didn't hire him
21 yet. I said okay, listen, it's obvious this is a scam. It's
22 obvious this is fraudulent. It's obvious that nobody really
23 was there and everything else.

24 So I decided to call the attorney, Vik Pawar. On
25 the bottom there is the attorney's name, phone number and

1 everything else. And I tried to, I talked to him maybe two,
2 three time and I try to explain him. I said, I am associate
3 broker, I've been working in this business for a long time. I
4 know what I'm telling you. Please, listen to me. Don't go on
5 with it because this is not going to take you anywhere. And I
6 explained to him. I said, listen, if you want, I'm going to
7 provide you some documents that you're going to see that at
8 the time he's claiming he was living there, we still had
9 inspections going on, we still had showings going on, we still
10 had the bills, all the utility bills that we were paying for
11 the unit. And so I try to convince him that this is nowhere
12 to go, to not go forward.

13 Then he told me no, I'm sorry, I have to believe my
14 client. I don't know you, I have to believe my client. I
15 even ask him, how well do you know this client? He told me, I
16 don't know him that well, but if somebody is hiring me, then I
17 have to go forward.

18 Anyway, so we saw that it doesn't go anywhere. We
19 were at that time planning a trip out of overseas with my
20 client, with Borris, Inc. So I told him just give me a little
21 extension. When I come back, I will hire an attorney. So
22 even before, before I come to Alex, I give -- pay him a
23 retainer, I tried one more time. I said, listen, this is so
24 crazy what you doing. And he says no, go pay your attorney,
25 get your -- pay your retainer, we are going to go forward. So

1 this is what we do.

2 Q And so approximately how many times did you speak with
3 Mr. Pawar?

4 A I could say about two, three times. One time I call him
5 for an extension. Two time I try to convince him. And I have
6 few e-mails that I could show you, all the e-mails that was --
7 that I try to explain him. I gave him all the chronologic
8 dates; when we bought, when we had even the inspections,
9 Department of Buildings inspection. I told him listen, at the
10 date he's claiming that he's living there, I had the
11 inspection. How is something like this possible? So I tried,
12 but he just refused.

13 Q Okay. And approximately, around when did you speak with
14 Mr. Pawar?

15 A So I don't remember exactly because we were going in
16 November -- it was I think somewhere between October to
17 November we were talking to this gentleman. I could give you
18 exact date if you want, I have it on my e-mail.

19 Q Ms. Davoudi, it's fine. Is that October to November of
20 2019?

21 A Right.

22 Q Okay. And you mentioned -- did you send him documents
23 related to the property?

24 A I did, I sent him. So, you know, I'm not an attorney,
25 but I wanted to make it professional. I put for him

1 Exhibit 1, Exhibit 2, Exhibit 3. And according to what was my
2 documents, I tell him, okay, my Exhibit 1, for instance, is my
3 certificate of occupancy, Exhibit 2 is my listing from the
4 MLS, Exhibit 3 is this, Exhibit 4 is this. So I explain him.
5 I gave him invoices from the alarm company. I gave him
6 invoices from the architect. I gave him -- I don't recall
7 what else. I gave him the MLS, from what was listing on the
8 -- on MLS. A few of those things.

9 Q Okay. And I'm going to turn to Ms. Davoudi. So as the
10 property manager for 84-21 Chapin Parkway, are you involved in
11 every lease signing for the property?

12 A Yes, we are. I am.

13 Q And did Ira Heaston ever rent an apartment at
14 84-21 Chapin Parkway?

15 A Never. I never saw him.

16 Q Okay. So I'm now going to show you what is already in
17 evidence as Exhibit W.

18 Okay. So do you recognize -- and then can you see
19 my screen?

20 A Yes, I do see it. This is our lease and with all the
21 real tenants.

22 Q And is this the lease for the subject unit, the
23 second-level unit?

24 A That's correct. That's correct. You call it first
25 floor, you call it second level, it's the same apartment.

1 Q Okay. And is this the same unit that was broken into and
2 you saw the blinds on?

3 A Correct.

4 Q Okay. And when was this lease signed?

5 A March 17th. And they were moving in May 1st.

6 Q Okay. And this is all in 2019?

7 A Correct.

8 Q And were you there when this lease was signed?

9 A Yes.

10 Q And does it say Ira Heaston or Salim Blake anywhere on
11 this lease?

12 A Absolutely not.

13 Q Now, at this time I am going to show you what is already
14 in evidence as Exhibit D. So this document and -- have you
15 ever seen this document before?

16 A We never ever use this kind of lease. Our standard lease
17 is what you saw before.

18 Q So this is not a standard lease form that you use for
19 84-24 Chapin Avenue?

20 A Absolutely not. No.

21 Q And where it says -- I'm going to scroll down. It says
22 at the end here, under landlord, Salim Blake and Borris, Inc.
23 Do you know a Salim Blake?

24 A No.

25 Q And what, if anything, do you notice about how Borris,

1 Inc. appears here?

2 A Yeah, Borris is B-o-r-r, double R, i-s. This one has it
3 as one R.

4 Q And has Borris, Inc. ever done business at
5 84-21 Chapin Parkway?

6 A No. This is a residential unit. No.

7 Q And as a property manager for 84-21 Chapin Parkway, do
8 you believe that this lease is false?

9 A 100 percent it is. It is a false lease. We never, ever
10 gave a lease like that.

11 Q And now I'm going to show you what is already in evidence
12 as Exhibits E, F and G. Just bear with me while I flip
13 through.

14 Okay. Have you ever seen E, F or G before?

15 A Never.

16 (Continued on the next page.)

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1 DIRECT EXAMINATION

2 BY MS. SHIN (Continued):

3 Q Did you see these documents when you saw the housing
4 court case file?

5 A No.

6 Q So are these are Exhibits, E, F and G the type of
7 receipts that you would provide to your tenants at
8 84-21 Chapin Parkway?

9 A No.

10 Q So, Ms. Davoudi, did there come a time when you learned
11 there was also a civil or a housing court matter filed by the
12 plaintiffs?

13 A Yes. So when we came to our attorney we asked, you know
14 we also have a civil court, he never responded. I said, we
15 never knew about the civil court. So again, we had to hire
16 another retainer because we didn't want to be at default with
17 the other one, so we hired another -- we paid another retainer
18 for the civil court.

19 Q And I'm going to just briefly show you what's already in
20 evidence in Exhibits H, I, J. This is Exhibit H.

21 Prior to you talking with your attorney on this
22 federal case, had you ever seen this document before?

23 A No.

24 Q How about this document?

25 A The only time we were aware of the civil court was when

1 we came to our attorney with the federal case. We didn't have
2 no clue whatsoever that there was also a civil court and this
3 is when our attorney suggested us that we should be taking
4 care of it because we didn't know, so we again had retainer
5 and took care of the civil court.

6 Q So prior to learning about this federal lawsuit,
7 Borris, Inc. and you were never aware of the civil court
8 lawsuit.

9 A Absolutely not.

10 MS. SHIN: Just one minute, Your Honor.

11 Q I'm just going to direct you back to Exhibit B. So can
12 you see what I'm looking at right now and can you read
13 exhibit -- can you actually -- you don't have to read it out
14 loud but is it visible on your screen --

15 A It is.

16 Q -- the paragraph?

17 A Right. It is. "The Facts."

18 Q Yes. So it says in paragraph 10, I'm reading from
19 Exhibit B in evidence, Plaintiff entered into a lease with the
20 private defendants to rent a second floor apartment at
21 84-21 Chapin Parkway, Queens, New York, (subject premises.)

22 Is that true?

23 A Absolutely not.

24 Q The lease was to commence on January 15, 2019 and run
25 through January 15, 2021, a term of two years. Is that true?

1 A Absolutely not.

2 Q Plaintiff made the duly required payments of security
3 deposits and paid their monthly rent.

4 A We didn't get a penny from these people, we never -- we
5 don't know who they are. Absolutely not.

6 Q It says: On April 4th, 2019 at approximately 7:30 p.m.
7 plaintiff, his wife, seven-year old daughter, three-year old
8 son were locked out of the subject premises after the private
9 defendants changed the locks. This was the second such
10 incident. Private defendants previously allowed plaintiff and
11 his family access after locking them out the first time.

12 Is that true?

13 A Total lie.

14 Q What did you say?

15 A No, it is not true.

16 MS. SHIN: Just one more minute, Your Honor, I
17 apologize.

18 Q On -- it says on paragraph 14: Following the second
19 illegal lockout, plaintiff sought the intervention of the New
20 York City Court because he had a wife and two minor children
21 who were once again inconvenienced by the illegal conduct and
22 lockout by the private defendants. Is that true?

23 A No.

24 Q Well, were you aware that he, Ira Heaston, went to a New
25 York Civil Court?

1 A Absolutely not.

2 Q After a hearing on or about April 9th, 2019, the NYC
3 Court issued an order directing that plaintiff and his family
4 be allowed to regain possession of the subject premises and
5 directed the NYPD to assist plaintiff and restore their rights
6 within the subject premises.

7 A Absolutely not.

8 Q Were you aware of this order?

9 A Absolutely not.

10 Q And on April 26th, 2019 at approximately 2 p.m. plaintiff
11 and his family were once again locked out illegally by the
12 private defendants. Is that true?

13 A No.

14 MS. SHIN: Your Honor, I have nothing further.

15 THE COURT: Do you, Mr. Sullivan, have any questions
16 of this witness?

17 MR. SULLIVAN: Yes, Judge.

18 CROSS-EXAMINATION

19 BY MR. SULLIVAN:

20 Q There is one item that was shown to you as you said
21 (inaudible) that was a never -- that was never signed by the
22 company, correct?

23 A I'm sorry, I can't hear you. Can you talk louder,
24 please.

25 MR. SULLIVAN: Sure, let me try.

1 Q One the last lease that was shown to you --

2 A Yes.

3 Q -- that was not signed by Borris, the company that you
4 were associated with; is that correct?

5 A The lease she showed us?

6 Q Yes.

7 A No. Absolutely not.

8 Q And on that lease somebody represented themselves to be
9 the owner of the property, right?

10 A Yes. That's what it said.

11 Q And you don't know who that is, right?

12 A I don't have no idea who it is on the lease.

13 Q You don't know whether that person collected any money as
14 far as that was concerned, do you?

15 A I don't have no idea.

16 Q And the receipts that were there, neither you nor the
17 person who owned the property (inaudible) --

18 A Absolutely. None of us ever have any receipts like this,
19 never gave receipts to anyone like that.

20 Q Do you know whether anybody else indicated that they were
21 the owner of the property?

22 A No one else would rent up this property without me
23 knowing about it.

24 Q And you were the real estate broker; is that correct?

25 A Yes, I am the real estate broker and I am managing this

1 property.

2 Q And initially when the property was purchased, there were
3 people occupying the property, correct?

4 A I'm sorry, I can't hear you. When we bought it?

5 Q Yes, was it being occupied?

6 A Yes, when we bought it those are foreclosure property,
7 when we bought there was squatters in them.

8 Q And when you say there were squatters, you mean there
9 were people living in them, right?

10 A They were living there but illegally living there. They
11 weren't really tenants. The house was --

12 Q What were --

13 A It was abandoned house which belonged to lady who had
14 Alzheimer's from what we understood and they sold it in the
15 Court --

16 Q The question is, were there people living there --
17 (Audio interference.)

18 A The people living --

19 THE COURT: Hang on both of you. Ms. -- I forgot
20 your last name, I'm sorry, you can't speak over the lawyer, so
21 try to give him a second to finish the question.

22 THE WITNESS: I can't hear him.

23 THE COURT: Okay. Yes.

24 THE WITNESS: I can't hear him.

25 THE COURT: And, Mr. Sullivan I don't know why you

1 abandoned the phone and you're back to video. We could hear
2 you better when you were just on the phone.

3 MR. SULLIVAN: The reason, Judge, the power was out,
4 and we had to put the video on. The power was dying on the
5 phone.

6 THE COURT: Okay, but you're cutting in and out and
7 this is just not acceptable. So I don't know what you can do.
8 Maybe plug your phone in and then use it that way. Because --

9 MR. SULLIVAN: That's what we had just done and that
10 wasn't working, now we're back on video.

11 THE COURT: Whatever you're doing is not working.
12 So plug your phone back in and sit by the wall unit, the
13 electrical outlet and use your phone.

14 Go off the video, the video is not working for you.

15 MR. SULLIVAN: I don't know --

16 THE COURT: While we have this break, I do need to
17 tell defense counsel we don't have too much time today because
18 I actually had to push back up a 4:30 appointment -- interview
19 aside, so you need to get your next witness on and I suggest
20 it be Mr. Pawar instead of the detective because at this point
21 that's who I want to hear from.

22 Mr. Sullivan, can you hear us?

23 MR. SULLIVAN: Yes, Judge. I have nothing further.

24 THE COURT: Okay. Thank you very much. You're
25 excused. I apologize I forgot, Ms. Davoudi, you're excused.

1 THE WITNESS: I'm excused, I'm done?

2 THE COURT: Yes, you are. Thank you.

3 (Witness excused.)

4 THE COURT: Call your next witness.

5 MR. SUNDARAN: Your Honor, based on the Court's
6 instruction, the defendants call Vik Pawar.

7 THE COURT: Fida, you have to call Mr. Pawar.

8 I also want to speak to the attorneys about how we
9 deal with Detective Portillo's testimony. We don't have an
10 affidavit from him, so I would accept one in lieu of his live
11 testimony, but if you want to adjourn to have his testimony
12 presented via video, with the instruction, Mr. Sullivan, that
13 you need to fix your video connection to make it work, we
14 could do that, put his testimony on very briefly put on the
15 record. Alternatively, we could try to -- I don't want to
16 keep the court reporters any later, we would have to take a
17 half hour break and go back on the video record and record it.

18 THE COURTRoom DEPUTY: Judge, we can't record on the
19 video.

20 THE COURT: Oh. We can't record any of it.

21 THE COURTRoom DEPUTY: Correct. Only on the phone
22 line we can do it, the AT&T line.

23 THE COURT: Okay. Maybe we'll switch to AT&T.
24 That's an idea. We can switch to phone line then we can
25 record.

1 Hi, Mr. Pawar, have a seat.

2 MR. PAWAR: Judge, do you want to take Mr. Blossner
3 first and I'll step out of the office.

4 THE COURT: I'll leave it to the defense attorney.
5 I don't know what Mr. Blossner is going to testify about, but
6 I think it's more important to hear from you.

7 MR. SUNDARAN: Your Honor, that's fine we can start
8 with Mr. Pawar.

9 MR. PAWAR: All right. Does that mean Mr. Blossner
10 can leave if he wants to?

11 THE COURT: I don't know how important his testimony
12 is, Mr. Sundaran or Ms. Shin.

13 MR. SUNDARAN: We can dispense with Mr. Blossner's
14 testimony.

15 THE COURT: Thank you Mr. Blossner for waiting
16 around so long, we appreciate that. Go ahead.

17 Mr. Pawar, if you raise your right hand.

18 (Witness sworn.)

19 **V I K R A N T P A W A R,**

20 called as a witness, having been first duly
21 sworn/affirmed, was examined and testified as
22 follows:

23 THE COURTRoom DEPUTY: Please state and spell your
24 name for the record.

25 THE WITNESS: Sorry. Vik, V-I-K. P-A-W-A-R.

1 THE COURT: You may inquire, Mr. Sundaran.

2 DIRECT EXAMINATION

3 BY MR. SUNDARAN:

4 Q Now, Mr. Pawar, just for the record, your full name is
5 Vikrant Pawar, correct?

6 A That's correct.

7 Q Do you presently work?

8 A Yes.

9 Q And what is your current occupation?

10 A I'm an attorney.

11 Q And are you a licensed attorney?

12 A I am.

13 Q How long have you been licensed?

14 A Approximately 18 years in New York and 19 in New Jersey.

15 Q Do you have a license to practice in the federal courts
16 of the Eastern District and Southern District of New York?

17 A Yes.

18 Q How long have you had those licenses?

19 THE COURT: I think technically speaking they are
20 admissions.

21 Are you admitted to both the Eastern and Southern
22 District?

23 THE WITNESS: Yes.

24 MR. SUNDARAN: I'm sorry.

25 THE COURT: How long?

1 THE WITNESS: Judge, if I had to guess since 2003
2 approximately.

3 THE COURT: 2003?

4 THE WITNESS: Yes, back in the day you get admitted
5 in the same place and then you go over to the Eastern District
6 and get a certificate.

7 BY MR. SUNDARAN:

8 Q Mr. Pawar, what type of cases do you typically bring in
9 the Southern District and the Eastern District?

10 A It's a mixed bag but I would say the majority of them are
11 1983 civil rights cases.

12 Q Can you ballpark how many civil rights cases you've
13 brought in the Southern and Eastern Districts --

14 A I would say --

15 Q -- since you began?

16 A -- two, 300.

17 Q Other than the practice of law, do you do anything else
18 to support yourself financially?

19 A No.

20 Q Have you ever been disciplined in any court, federal or
21 state?

22 A No.

23 Q Have you ever been sanctioned in court, federal or state?

24 A I don't -- I may have gotten a sanction in the Southern
25 District for posting something that I wasn't supposed to. I'm

1 not sure if that was a sanction or violation of the court
2 order, I'm not sure.

3 Q Are you familiar with the *Troy Britt versus City of*
4 *New York case?*

5 A Yes, that was -- I think I was sanctioned or fined \$500.

6 Q Correct. And you were also sanctioned for withholding
7 some photographs by Judge Moses, correct?

8 A I don't believe so.

9 MR. SUNDARAN: Docket number 132. We would ask that
10 the Court -- I'm sorry, Your Honor, we would ask at this time
11 that the Court take judicial notice of *Troy Britt versus*
12 *City of New York, 17-CV-931*. The judges are Alison Nathan and
13 Barbara Moses. It's docket number 181 dated February 20th,
14 2019, it is a sanction order regarding discovery misconduct.

15 Q Mr. Pawar, are you familiar with that order?

16 A I take your word for it.

17 Q Have you ever been suspended from the practice of law by
18 any court?

19 A No.

20 Q You are currently plaintiff's former counsel, correct?

21 A Yes.

22 Q You represented him from the original filing of the
23 initial pleading until August 6 of 2020, correct?

24 A Yes.

25 Q You filed a notice of claim before bringing plaintiff's

1 lawsuit in this court, correct?

2 A Did I file a notice of claim bringing a federal lawsuit,
3 yes.

4 Q And you filed a notice of claim on May 8th, 2019, right?

5 A I don't have it in front of me but if that's what the
6 date is then, yes.

7 Q That was approximately two weeks after plaintiff's
8 April 26th arrest?

9 A It's possible.

10 Q And the party on the notice of claim was Ira Heaston,
11 correct?

12 A That's correct.

13 Q And your signature also appears on that document,
14 correct?

15 A If it's there then, yes, it's my signature.

16 Q Typically, as a federal civil rights practitioner you
17 sign notices of claim, right, as a standard practice?

18 A That's correct.

19 Q So is it fair to say that your signature would have
20 appeared in the notice of claim filed on plaintiff's behalf?

21 A I don't have it in front of me but I'll take your word
22 for it.

23 Q You also alleged a series of injuries that plaintiff
24 sustained, correct?

25 A That's correct.

1 MR. SUNDARAN: Ms. Shin, can you put up Defendants'
2 Exhibit 0.

3 Q Mr. Pawar, are you familiar with this document?
4 A Yup.

5 MR. SUNDARAN: Ms. Shin, can you scroll to
6 paragraph 4.

7 Q If you look at paragraph 4, Mr. Pawar, you claim that
8 plaintiff suffered injuries to his body, head, neck, eyes,
9 ears, mouth, face, arms and legs, nerves, and nervous system,
10 medical treatment and unlawful imprisonment.

11 Do you see that?

12 A Yes.

13 Q Did you come up with those list of damages and injuries?
14 A No, those are just the standards that I put in every
15 notice of claim.

16 Q Sir, where did you get that information from? Did you
17 get that from the plaintiff or did you make it up?

18 A I must have gotten it from plaintiff.

19 Q Did you seek \$1 million from the City of New York?

20 A That's the amount claimed is, yes.

21 Q And, Ms. Shin, can you go to the second page at that
22 paragraph beginning with, The undersigned claimant. You
23 understood that if the City did not pay or adjust the claim on
24 behalf of the plaintiff, you would then commence an action on
25 that claim, correct?

1 A That's correct. Can I just say something about the
2 second page?

3 Q Yes.

4 A The handwriting on the top of the claimant where it says
5 "Ira Heaston" that's my handwriting. This one here it's also
6 my handwriting but --

7 Q When you say "this one" is that the one with the
8 verification, individual verification?

9 A Yes, but I believe that's his signature.

10 Q But your signature appears on the top left, correct?

11 A That's correct.

12 Q And, in fact, the City did not pay or adjust your claim,
13 right, on plaintiff's behalf?

14 A That is correct.

15 Q And so you filed a lawsuit on plaintiff's behalf,
16 correct?

17 A That is correct.

18 Q And at the time you filed the initial complaint on or
19 about October 2nd, 2019, you had made plaintiff aware of the
20 lawsuit, correct?

21 A Absolutely.

22 Q Now prior on -- you received a series of notices with
23 regard to a 50-H hearing, correct, your office?

24 A Yes, I recall -- yes.

25 Q Okay, and each of those notices of the 50-H hearing were

1 also communicated to the plaintiff, correct?

2 THE WITNESS: Judge, I apologize I should have asked
3 Your Honor this before, perhaps we can do this retroactively
4 if it's possible. I don't know if the plaintiff has waived
5 his Fifth Amendment right, and if he has not I would just ask
6 that Your Honor order me to answer the questions that I'm
7 going to or the questions that I've already answered.

8 THE COURT: Yes, I am going to direct you to answer
9 the questions. Let me just say this, I think the crime fraud
10 exception could well apply here or does apply based on the
11 allegation and then also I think there is a waiver exception
12 because Mr. Heaston has certainly raised the defense --
13 perhaps every one should mute. Raised the defense that he did
14 not know what was in the complaint and therefore it was solely
15 the invention of his attorney and that would be you. So,
16 therefore, I think he's, in effect, waived any right to keep
17 you from providing truthful testimony if you're capable -- not
18 if you're capable, but rather providing truthful testimony.

19 THE WITNESS: Thank you, Judge.

20 THE COURT: All right. Go ahead.

21 THE WITNESS: Thank you, Judge. Go ahead, Mr.
22 Sundaran.

23 MR. SUNDARAN: Ms. Shin, can you please put up for
24 identification Defendants' Exhibit P1.

25 Q Mr. Pawar, this is a notice of 50-H hearing addressed to

1 your office on May 24th, 2019.

2 A Yes. And --

3 Q And the hearing date and place was communicated to the
4 plaintiff?

5 A Yes. And he didn't make it the first time but there was
6 a second hearing date set.

7 MR. SUNDARAN: Ms. Shin, could you put up Exhibit P2
8 please.

9 Q Now, Mr. Pawar, this is an adjournment of the 50-H
10 hearing dated August 14th indicating a new date for the
11 hearing, right?

12 A That's correct. And it was in conflict with my schedule
13 so I believe Mr. Blossner covered that 50-H hearing.

14 Q Was this notice communicated to the plaintiff?

15 A Yes.

16 MR. SUNDARAN: Ms. Shin, can you put up P3.

17 Q Mr. Pawar, this is an adjournment of the 50-H hearing now
18 dated September 9th, 2019.

19 A You mean November 13th of 2019?

20 Q No, the date of the hearing, the adjournment notice dated
21 September 9th?

22 A Yes, I misspoke.

23 Q No problem.

24 A I misspoke. Mr. Blossner covered the actual hearing. I
25 remember it was adjourned either once or twice before but it

1 was communicated to plaintiff, yes.

2 Q And this notice your office received, as you answered,
3 you communicated to plaintiff, correct?

4 A That's correct.

5 Q Okay. And the date of the actual hearing on this notice
6 on September 3 is November 13th, 2019?

7 A Yes, that's what it says.

8 Q And plaintiff, to your knowledge, appeared at the 50-H
9 that day?

10 A I know he was in my office and I know Mr. Blossner went
11 with him to the 50-H hearing, so the answer is, yes.

12 Q And, for the record, Mr. Blossner represented him at the
13 50-H hearing.

14 A That's right.

15 Q You were not there?

16 A I was not.

17 Q Now the date of the 50-H hearing, November 13th, 2019, by
18 that date there was two complaints, two federal complaints
19 filed with the lawsuit, right, the original complaint and the
20 first amendment?

21 A I didn't know -- the dates speak for themselves so, that
22 was --

23 Q If I told you the first complaint was dated October 2nd,
24 2019, would you agree?

25 A I would agree, yes.

1 Q If I told you that the second -- or first amended
2 complaint was filed on October 9th, 2019, would you agree?

3 A I would agree.

4 Q Would you agree that those dates preceded the 50-H
5 hearing on November 13th, 2019?

6 A That's correct.

7 Q So were those -- was the first -- was the original
8 lawsuit and the first amended -- was the original complaint
9 and the first amended complaint communicated to plaintiff at
10 or near the time that they were filed?

11 A Absolutely.

12 Q Were the factual allegations in the original complaint
13 and the first amended complaint communicated to the plaintiff
14 at or near the time that it was filed?

15 A Just one second, Mr. Sundaran, I'm just reading through
16 the -- all right. The best that I can answer that question is
17 that the substance of the allegations in the complaint were
18 received from plaintiff and the fact that a lawsuit was filed
19 was communicated to plaintiff. Whether I let him know that I
20 amended the complaint or not, I don't know if that was
21 communicated to him, but the information that was contained in
22 the complaint itself was information that I received from the
23 plaintiff.

24 MR. SUNDARAN: Ms. Shin, can you put Defendants'
25 Exhibit (inaudible).

1 THE COURT: What did you say?

2 MR. SUNDARAN: B as in boy.

3 THE COURT: Okay.

4 Mr. Sundaran, don't go too fast even though your
5 short of time because the court reporter has to get
6 everything.

7 MR. SUNDARAN: Understood, Your Honor.

8 Q Mr. Pawar, this is the first amended complaint filed by
9 you on plaintiff's behalf on October 9th, 2019.

10 A Okay.

11 Q Am I correct?

12 A Yeah, it looks like it, yeah.

13 MR. SUNDARAN: Ms. Shin, if you can go to the
14 factual -- all right.

15 Q Paragraph 10. Plaintiff entered into a lease with
16 private defendants to rent a second floor apartment at
17 84-21 Chapin Parkway, Queens, New York, (subject premises.)

18 Did plaintiff provide you with that information?

19 A Absolutely.

20 Q Did you make up that information?

21 A No.

22 Q The next paragraph: The lease was to commence on
23 January 15, 2019 and run through January 15, 2021, a term of
24 two years.

25 Did plaintiff provide you with that information?

1 A Yes.

2 Q In the interest of efficiency I'm just going to call out
3 the numbered paragraphs.

4 Paragraph 12 on Defendants' B, as in boy, did
5 plaintiff provide you with that information?

6 A Yes.

7 Q Paragraph 13, did plaintiff provide you with that
8 information?

9 A Yes.

10 Q Paragraph 14, did plaintiff provide you with that
11 information?

12 A Yes.

13 Q Paragraph 15, did plaintiff provide you with that
14 information?

15 A Yes.

16 Q Paragraph 16, did plaintiff provide you with that
17 information?

18 A Yes.

19 Q Paragraph 17, did plaintiff provide you with that
20 information?

21 A Yes.

22 Q Paragraph 18, did plaintiff provide you with that
23 information?

24 A Yes.

25 Q Paragraph 19, did plaintiff provide you with that

1 information?

2 A Yes.

3 Q Paragraph 20, did plaintiff provide you with that
4 information?

5 A Yes. Except --

6 Q Paragraph 21 --

7 A I'm sorry. Except for the commentary that the (audio
8 interference) what the NYC Court order put in itself.

9 Q Paragraph --

10 A In sum and substance the answer is yes.

11 Q Paragraph 21, did plaintiff provide you with that
12 information?

13 A Yes. And the same with 22.

14 Q And the same with 23?

15 A Yes.

16 MR. SUNDARAN: Ms. Shin, is there a paragraph 24?

17 A Yes.

18 Q Paragraph 24, did plaintiff provide you with that
19 information?

20 A Yes.

21 Q So just to sum it up, plaintiff caused you to believe
22 that he was a lawful resident of an apartment at
23 84-21 Chapin Parkway?

24 A I had no reason to believe that he was not.

25 Q Did he tell you he was a lawful resident at

1 84-21 Chapin Parkway?

2 A Yes.

3 Q And you took his word for it?

4 A Absolutely. And the document that he showed me.

5 Q Well, Mr. Pawar, did you, after filing the first amended
6 complaint on October 9th, 2019, had Ms. Davoudi from
7 Borris, Inc. had reached out to you, correct?

8 A I'm not sure exactly when she reached out to me but it
9 was -- I remember --

10 (Video dropped.)

11 THE COURT REPORTER: I lost the answer.

12 THE COURT: I think we all lost the answer.

13 Can everyone hear me?

14 MR. SUNDARAN: Yes.

15 THE COURT: Start again, Mr. Pawar, we all seem to
16 have lost the audio when you started your answer.

17 So Ms. Davoudi, you don't know when she contacted
18 you is I think where you started.

19 MR. SUNDARAN: You're on mute, Mr. Pawar.

20 THE COURT: Unmute.

21 MR. SUNDARAN: Unmute.

22 THE WITNESS: I'm sorry, I don't know how I did
23 that.

24 So I don't know when she contacted me but I remember
25 she had called me and she said would you accept and she gave a

1 dollar amount to settle this case. I said, no. And then I
2 said, I really think you should get yourself a lawyer. And
3 she said that -- I think she said he may have been out of the
4 country or something and I said, well, he can't appear on
5 defendants' behalf anyway because it's a corporation and you
6 have to have an attorney present.

7 So I went to Judge Scanlon at some point letting her
8 know that somebody did reach out to me and I'm giving them
9 time to file an answer when they obtain representation.

10 BY MR. SUNDARAN:

11 Q Mr. Pawar, did Ms. Davoudi contact you sometime in
12 October or November of 2019?

13 A I can't -- I can't tell you the date.

14 Q Mr. Pawar, did Ms. Davoudi inform you that Borris, Inc.
15 had closed on the property known as 84-21 Chapin Parkway on
16 August 3rd, 2017?

17 A I don't recall that.

18 Q Did Ms. Davoudi inform you that Borris, Inc. had received
19 on April 20 an approved plan by the Department of Buildings to
20 convert it to a (inaudible) home?

21 A I don't recall that.

22 Q Did Ms. Davoudi inform you that Borris, Inc. received a
23 certificate of occupation for 84-21 Chapin Parkway on
24 March 28, 2019?

25 A Not at that time but I do recall seeing that when they

1 filed a motion to vacate the order in the housing court.

2 Q Did Ms. Davoudi inform you that Borris, Inc. had signed a
3 lease for their first tenant on or about April 4th, 2019?

4 A It's possible, but there were three families in the house
5 so...

6 Q Did Ms. Davoudi inform you that Borris, Inc. had received
7 information from their security company on April 4th that
8 someone had changed the locks and put a block?

9 A I do believe -- yeah, I do recall, yeah, I do remember
10 that specific thing, yes.

11 Q Did Ms. Davoudi inform you that there was no way that the
12 plaintiff, your former client, could have had a lease from
13 January 15, 2019 to April 23rd, 2019?

14 A Well, I had no reason to believe Ms. Davoudi one way or
15 the other because I've seen from many clients when landlords
16 change locks to illegally lock out their tenants. So I had no
17 reason to believe one way or the other what she was stating.

18 Q Mr. Pawar, did Ms. Davoudi offer you proof of her MLS
19 listing for 84-21 Chapin Parkway as well as plans filed with
20 the Department of Buildings and a Certificate of Occupancy?

21 A I don't recall that.

22 Q Mr. Pawar, did you conduct any independent investigation
23 into plaintiff's claims other than taking his word for it?

24 A I'm not sure what do you mean by -- did I hire a private
25 investigator to go to verify whether Ms. Davoudi was telling

1 the truth or my client was telling the truth, the answer is
2 no.

3 Q Mr. Pawar, as a licensed attorney before bringing a
4 lawsuit, you're aware that you have an obligation to conduct a
5 reasonable investigation into the factual assertions, correct?

6 A Yup.

7 Q Did you look up the property address on the New York City
8 ACRIS system to get the details of 84-21 Chapin Parkway?

9 A Yeah, I actually got a picture from the plaintiff telling
10 me what the property looked like.

11 Q Did you independently look up on the New York City ACRIS
12 system to get the details of 84-21 Chapin Parkway?

13 A To do what?

14 Q To conduct a reasonable investigation?

15 A Into what?

16 Q Into plaintiff's factual claims?

17 A Whether a plaintiff was a tenant at 84-21 Chapin Parkway
18 would not show up on the ACRIS report.

19 Q But the owner of the property would, right, Mr. Pawar?

20 A I suppose, I don't know.

21 Q And you also suppose that the owner, Salim Blake, would
22 not have appeared (audio dropped) on the property address on
23 the New York ACRIS, correct?

24 A That's not necessarily true at all.

25 Q Okay. Did you conduct a search with the Department of

1 Buildings to confirm anything that you heard from Ms. Davoudi
2 about the Certificate of Occupancy for a proof -- for approved
3 renovation?

4 A No.

5 Q Did you speak to the alleged landlord on plaintiff's
6 lease, Salim Blake?

7 A I couldn't find him.

8 Q Did you ask plaintiff for his phone number?

9 A I did.

10 Q Did you call him?

11 A The number was disconnected.

12 Q Did you make attempts to call him again?

13 A The number was disconnected and I had a court order. The
14 court order said that plaintiff was a tenant at this residence
15 and the court order said the tenant -- the plaintiff should be
16 restored to his residence.

17 Q Sir, that's not the question.

18 A Hold on, hold on. If you want me to go and question and
19 look up things that question a judge's order, the answer is
20 no.

21 Q Okay. Did you go to the address listed for Salim Blake
22 on the residential lease, 84-21 Chapin Parkway?

23 A No.

24 Q Sir, I again remind you under Rule 11 you understand
25 there is an independent obligation to conduct a reasonable

1 investigation into the facts, correct?

2 A Well, your definition of reasonableness might be
3 different than mine.

4 Q Did you reach out to any agent of Borris, Inc. in
5 connection with plaintiff's claim?

6 A I'm not sure if I did.

7 Q You understand that Borris, Inc. is a registered domestic
8 corporation that -- whose information is listed on the
9 New York State Division of Corporations' website, right?

10 A Well, I'm not sure of the -- of the address. I'm trying
11 to think of how I got in touch with Alex, the attorney for the
12 private defendants. I may have served them at a location in
13 Queens, so I must have gotten somehow their business address.

14 (Continued on the next page.)

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1 MR. SUNDARAN: Ms. Shin, if you could put up
2 Defense Exhibit C?

3 MS. SHIN: (Complies.)

4 DIRECT EXAMINATION

5 BY MR. SUNDARAN (Continued):

6 Q By the way, Mr. Pawar, what did you do after you became
7 aware that Borris, Inc. had filed a motion to vacate in
8 housing court?

9 A I had a conversation with Alex, and I said, You know, I
10 don't know that it really affects my case because my clients
11 had a law order, a state court order, and the client has to
12 file a motion, an order to show cause to dismiss or to
13 vacate the order, then I'm not going to oppose it because I
14 don't think I need that to go forward with my case against
15 the city defendant.

16 Q Sir, are you aware that in the order to show cause
17 there was a certificate of occupancy attached to it?

18 A I don't recall.

19 Q Are you aware that there were lease agreements, the
20 proper lease agreements that Borris, Inc. issued in that
21 order to show cause?

22 A I'm not -- I don't recall what was in there.

23 Q Are you aware that there was also the architect's
24 statement of invoice attached to that motion to vacate?

25 A I don't recall.

1 Q Did you conduct any reasonable investigation into the
2 housing court proceeding and the documents attached to that?

3 A No. Because I thought that the private defendants,
4 they settled the case and they wanted to get this thing
5 off of their -- off of the Court's docket so they were
6 proceeding as such, and I really didn't bother with it.

7 Q Did it concern you that the housing court order that
8 Plaintiff presented you with might have been fraudulently
9 obtained?

10 A I had no reason to believe that it was fraudulent at
11 the time.

12 Q And that's because you conducted no reasonable
13 investigation, correct?

14 A That's not true.

15 Q Now, looking at the Second Amended Complaint,
16 Defendants' C, are you familiar with this document?

17 A Yep.

18 Q You filed it, right?

19 A Yep.

20 Q Okay. So this was filed after Plaintiff sat for his
21 50-H Hearing, right, on May 9th, 2020?

22 A Let me just -- I'm pulling it up on my computer, so if
23 it contains state law claims and if it says that -- well,
24 yes.

25 Q Okay. And again, Plaintiff was made aware of the

1 factual allegations of this lawsuit as well, right?

2 A Absolutely.

3 Q And on May 9th, 2020 you had also settled with the
4 private defendant, Borris, Inc., correct?

5 A I don't recall the date, but there was a settlement,
6 yes.

7 Q Sir, is Borris, Inc. listed as a defendant in the
8 Second Amended Complaint?

9 A No. Because I think we had settled the case prior to
10 me filing the Second Amended Complaint.

11 Q So sometime on or before March 9th, 2020, you settled
12 with Borris, Inc., correct?

13 A If that's when the Second Amended Complaint was filed,
14 then the answer is yes.

15 Q And Plaintiff was also aware that you had settled with
16 Borris, Inc., correct?

17 A Yes. He received a check.

18 Q And he understood that the check was in connection with
19 his lawsuit against the City, its officers, and
20 Borris, Inc., correct?

21 A Well, in the suit there's a -- there's a check for --
22 in the settlement with the private defendants, not with the
23 City, and --

24 Q Right. But in connection with this lawsuit?

25 A Yeah --

1 Q Okay.

2 A -- of course.

3 Q And you made Plaintiff aware of that fact, correct?

4 A That -- the fact that he was --

5 Q The fact that he was getting money pursuant to a
6 lawsuit he had filed with Borris, Inc. as a co-defendant in
7 the First Amended Complaint?

8 A In sum and substance, yes.

9 Q And now if you want to take a look at the facts --

10 MR. SUNDARAN: Ms. Shin, if you could scroll to
11 the facts section?

12 Q And you could just read this to yourself, 10, 11 --

13 MR. SUNDARAN: And could you please scroll, scroll
14 slowly, Ms. Shin?

15 A No. I'm all the way up to 24, yes.

16 BY MR. SUNDARAN:

17 Q You're good up to 24?

18 A Yep.

19 Q So --

20 A I think --

21 Q -- you agree that -- you agree that the factual
22 allegations are clearly similar in the
23 Second Amended Complaint as it is in the first and original
24 complaints correct?

25 A Yep. Yep, they appear to be.

1 Q Okay.

2 Now, I want to refer your attention to
3 Paragraph Number 42.

4 MR. SUNDARAN: Ms. Shin, if you can go to that?

5 Q Paragraph Number 42 reads, NYPD Defendants failed to
6 undertake a proper investigation and simply arrested
7 Plaintiff because he, quote, "looked like another black male
8 suspect."

9 Mr. Pawar, was that something that Plaintiff told
10 you about; was that something that was communicated to you
11 by Plaintiff?

12 A "Looked like another..." -- in -- in sum and stance,
13 yes.

14 Q He told you -- I'm sorry. Mr. Heaston told you that he
15 believed he was arrested because he looked like another
16 black male suspect?

17 A Well, look, just to clarify certain things, I don't
18 know what was said when I was not present at the prior
19 testimony, but Mr. Heaston has a twin, and anytime there's
20 an issue, he would say, Maybe it was my twin who did it.

21 Q That's not the question, Mr. Pawar.

22 Did Mr. Heaston tell you that he was arrested
23 because he looked like another black male suspect?

24 A You know, what? Sitting here today, I -- I can't
25 recall.

1 Q So you inserted this --

2 A I don't think I --

3 Q -- you inserted this without Plaintiff's knowledge?

4 A Like I said, I do not recall.

5 Q Okay.

6 Now, Paragraph Number 43 has a NYPD Civil
7 Court Exhibit attached to it, do you see it?

8 A Yes.

9 Q It references an exhibit?

10 A Yes.

11 Q And that exhibit is the plaintiff's order to show cause
12 to verified petition; the decision from Judge Lai; and the
13 security rent receipts; and Plaintiff's version of the
14 events, correct? You attached all of those documents to the
15 complaint?

16 A If Exhibit 1 was attached to this lawsuit, then yes,
17 the answer is yes. I just don't see it where I'm looking at
18 it, but yes.

19 Q Well, if I told you you attached the housing court
20 proceedings, Plaintiff's version of the lease, and the
21 security rent receipts, would you agree with me?

22 A I would.

23 Q And in addition to the housing court records, you had
24 other information concerning Plaintiffs' April 26th arrest,
25 correct?

1 A Well, do you mean when I filed the
2 Second Amended Complaint?

3 Q Yes.

4 A Yeah. I believe I had initial disclosures from your
5 office.

6 Q Right. And they were provided to you on January 29th,
7 2020?

8 A I -- if that's the date, then the answer is yes.

9 Q And the initial disclosures included DD5's associated
10 with an open burglary complaint, correct?

11 A That is correct.

12 Q And those DD5's included the name of the complainants,
13 Ms. Davoudi and Mr. Kandkhorov, correct?

14 A I'm not sure if their names were on there or if you had
15 redacted them. But if there's an -- yeah, sure.

16 Q But a reference, Complaining Victim, correct?

17 A Yes, yes.

18 Q Okay. And despite receiving this evidence from
19 Defendant back on January 29th, 2020, you did not withdraw
20 the case, correct?

21 A I had no reason to.

22 Q Okay.

23 On April 20th -- on April 29th of 2020 the City
24 provided you with copies of the Queens Civil Housing Court
25 file, correct?

1 A Yep.

2 Q And that file included Defense --
3 Co-Defendant Borris, Inc.'s case; Plaintiff's default
4 judgment; and it included affidavits from Ms. Davoudi, as
5 well as attachments, which included the real leases, which
6 is at 84-21 Chapin Parkway certificate of occupancy, and
7 other documents proving that Plaintiff could not have lived
8 there at that time, right?

9 A If it's a landlord thing, from -- what I gather from
10 this document, it's a landlord thing. I didn't do anything
11 wrong. I wonder if the default judgment will be vacated.
12 It happens all the time when a tenant says something, the
13 landlord wants to absolve itself of any responsibility, so
14 it was not unusual for me to see that, but I didn't contest
15 it.

16 Q Would it be unusual that the building department issued
17 a certificate of occupancy only on March 28, 2019 when your
18 former client complained to you that he was living there at
19 that time?

20 A I have no knowledge of when this DOB disputed occupancy
21 and when my client -- former client says that he was there.

22 Q Sir, this document is a public record, correct?

23 MR. SULLIVAN: Your Honor -- Your Honor --
24 Your Honor, if I may? Can you hear me?

25 THE COURT: I can hear you, yes.

1 MR. SULLIVAN: Yes, if I can -- I just need --

2 (Audio cuts out briefly.)

3 THE COURT: Mr. Sullivan, we can't hear you.

4 MR. SULLIVAN: I just need a few minutes for a
5 bathroom break. We've been going since 1:00 o'clock. I
6 just need to use the bathroom.

7 THE COURT: Okay. Go ahead.

8 Let's take ten minutes. Everyone please come
9 right back.

10 (Recess taken.)

11 THE COURT: All right. Next question,
12 Mr. Sundaran?

13 BY MR. SUNDARAN:

14 Q Mr. Pawar, you had an opportunity to go and investigate
15 the claims of Plaintiff, correct?

16 A I don't know what he's talking about. I have a -- I
17 had the state court order. I looked at the order --

18 Q Sir --

19 A -- I looked at the --

20 Q -- the question is --

21 A No, no, no.

22 Q -- did you have an opportunity --

23 A No, no --

24 Q -- to investigate --

25 THE COURT: Mr. Sundaran, stop.

1 Mr. Sundaran, let Mr. Pawar finish.

2 Go ahead.

3 A No. Stop accusing me of doing something that I haven't
4 done, okay? That's number one.

5 Number two, we all had cases before. When my
6 client says that he was abused by the police, you don't go
7 and tell the cops, Hey, you know, I'm going to admonish you
8 for doing this? So let's cut to the chase here. What --
9 are you -- are you accusing me of not doing my investigation
10 for this case? I didn't have -- I did as much as I had to
11 because of the state court order, but the receipts, which
12 gave me reasonable belief that Plaintiff was supposed to be
13 there when he was arrested.

14 So what is your next question?

15 THE COURT: All right, Mr. Pawar -- hey, hey, hey.
16 Both of you calm down. Okay?

17 Mr. Sundaran, move on. You can make arguments,
18 but you needn't try to get Mr. Pawar to agree with you that
19 he could have done more. He's --

20 MR. SUNDARAN: Understood --

21 THE COURT: He's made his --

22 MR. SUNDARAN: Understood, Your Honor.

23 THE COURT: He's made a statement on that.

24 MR. SUNDARAN: Thank you.

25 THE COURT: Okay.

1 BY MR. SUNDARAN:

2 Q Mr. Pawar, the supplemental production by Defendants on
3 April 29th, 2020 included an NYPD wanted flyer with your
4 client's photograph on it, correct?

5 A No. It was a -- it was a photograph of an
6 African-American male.

7 Q And that photograph resembled your client; is that
8 correct?

9 A I can't -- no. I mean --

10 Q Did you show that photo to your client?

11 A Yes, and he said it was not him.

12 Q Okay.

13 All right. On May 7th, 2020 you participated in
14 telephone -- in a telephone conference with Defense Counsel
15 before Judge Scanlon regarding writings of service,
16 proceeding of additional discovery, and prospects of
17 settlement, correct?

18 A That is correct.

19 Q On May 8th, 2020 Defense Counsel informed you of their
20 conversation with Margaret Kirkland, who provided additional
21 information regarding Plaintiff's claim to have been a valid
22 leaseholder at 84-21 Chapin Parkway, correct?

23 A For all I knew, Margaret Kirkland was working with the
24 landlord. I have no idea who this woman is. When I asked
25 Plaintiff about who this woman is, he said that she was an

1 angry mother-in-law who was trying to sabotage my case.

2 Q I'm sorry. You said, for all you know, are you
3 inferring --

4 A I'm not --

5 Q -- that there must have been some sort of conspiracy
6 between Ms. Kirkland and the landlord?

7 A I have no idea who this woman was -- or is.

8 Q On July 17th, following your refusal to withdraw from
9 the case, Defendants filed a letter for inquest to this
10 Court; do you recall that?

11 A No. You never filed a letter for inquest.

12 Q We asked for a hearing on -- we asked for a hearing by
13 letter dated July 17th.

14 A That is correct, but not a -- not an inquest.

15 Q Do you recall you submitted a reply to that letter also
16 dated July 17th, 2020?

17 A I did. And I sent it, and I told the Court that
18 it's -- it's not my job to judge what my client is telling
19 me. I have to go where the fact take me.

20 Q In fact, not only did you object, but you made some
21 very serious allegations and incendiary remarks, correct?

22 THE WITNESS: I don't know what he's talking --

23 A I don't know what you're talking about.

24 THE COURT: Sustained as to charging.

25 MR. SUNDARAN: Okay.

1 THE COURT: Go ahead and ask him what it is he
2 supposedly said.

3 BY MR. SUNDARAN:

4 Q Your opposition, Mr. Pawar, for claims for any hearing
5 on Plaintiff's misconduct would have an unprecedented
6 chilling effect on the adversarial system, correct?

7 A Absolutely. And that's -- and -- and it's correct,
8 because if -- if I -- if I make some -- if my client's
9 making some sort of an allegation and another party says,
10 Well, that's not true, what am I supposed to do? Take
11 your -- take the adversary's word for it? Take your word
12 for it and drop all the lawsuits? Otherwise, you wouldn't
13 have any civil rights lawsuits. So I -- I -- I...

14 Q Mr. Pawar, your opposition continued to claim that
15 Plaintiff, an African-American male, was arrested after he
16 called 911 for aid in gaining entrance to an apartment he
17 rented from the co-defendant landlord's agent, despite his
18 displaying an order from housing court to the Defendant
19 Officers, correct?

20 A Absolutely correct.

21 Q Your opposition further added, "As current events have
22 unfortunately brought out, such is not an usual response
23 when minorities summon law enforcement for assistance." You
24 wrote that too, right?

25 A Yes.

1 Q Did Plaintiff tell you he was arrested because he was a
2 minority?

3 A Plaintiff --

4 THE WITNESS: Judge, what is the purpose of this
5 question? I mean...

6 MR. SUNDARAN: You're on mute, Your Honor.

7 (Pause in proceedings.)

8 THE COURT: My apologies. I muted myself.

9 Just answer the question. Did your client say
10 that to you or not?

11 A Well, I inferred the fact that my -- did my client say
12 that to me? I don't recall. But I inferred, because they
13 had a wanted poster for an African-American male and my
14 client happens to be an African-American male who called 911
15 for assistance, and they arrested him instead. So I don't
16 know if my client specifically told me that, but I inferred
17 it.

18 Q Sir, the flyer was a surveillance photo captured; it
19 wasn't a drawing?

20 A Whatever it was, it looked like an African-American
21 male. It did not look like my client.

22 Q Your opposition also claims that it would have been
23 immaterial at the time of Plaintiff's arrest -- I'm sorry.

24 Your opposition also claims that the housing court
25 order had been -- that even if the housing court order had

1 been procured by fraud, it would have been material at the
2 time because the defendant officers would not have known
3 that such order was fraudulent; your opposition also stated
4 that, too, right?

5 A I -- I don't recall the exact language of my
6 opposition.

7 Q Okay. Your opposition also complained that
8 Ms. Kirkland was a disgruntled family member, correct?

9 A Yes, I do recall stating that. Yes.

10 Q And that she had sent Mr. Heaston erratic and
11 threatening messages, correct?

12 A That is correct.

13 Q You also --

14 THE COURT: Mr. Sundaran, let me just -- hold on.

15 Let me just say this: You don't need to read back
16 the entire opposition -- oh, hang on. I'm sorry. I'm
17 sorry.

18 Yeah. You needn't read the whole thing. I was
19 giving you some leeway because I thought you were going to
20 ask a follow-up, but don't read the entire opposition back
21 to him.

22 MR. SUNDARAN: Okay.

23 THE COURT: But you can make your argument about
24 it.

25 MR. SUNDARAN: Okay.

1 BY MR. SUNDARAN:

2 Q Mr. Pawar, you're familiar with your Rule 11 obligation
3 as an attorney to deny or confirm on behalf of your client,
4 correct?

5 A Just as you are when you deny the allegations in your
6 answer, yeah.

7 Q And you're aware that both as attorney and as client,
8 you can be sanctioned under Rule 11 for the factual
9 insufficiency in the complaint, right?

10 A If it's been highlighted to you and it's not withdrawn
11 in a timely fashion and it's found that it was -- it was not
12 true, then yes.

13 Q And you're aware that your withdrawal as attorney on
14 Mr. Heaston's case does not excuse or insulate you for your
15 plea withdrawal sanctionable conduct, correct?

16 A You're getting into -- you're getting into legal areas
17 Mr. --

18 THE COURT: Yes, sustain.

19 Mr. Sundaran, again, you can make arguments, but I
20 don't know what the purpose is of asking Mr. Pawar these
21 questions.

22 MR. SUNDARAN: Your Honor, I will move on.

23 THE COURT: Yes, please do.

24 BY MR. SUNDARAN:

25 Q Mr. Pawar, August 3rd of 2020, you sent of photos to

1 me; do you recall that?

2 A Yes, yes.

3 Q And those photos contained images of Mr. Heaston and
4 Salim Blake, correct?

5 A No --

6 Q Did you --

7 A -- well --

8 Q -- show your client those photos --

9 A Yes.

10 Q -- your former client?

11 A Yes.

12 Q Did he identify himself in those photos?

13 A He said that, It's definitely my twin brother.

14 Q Did he identify Mr. Blake in those photos?

15 A He -- he act -- the responses that I received from my
16 client -- from my former client regarding those photographs
17 were unsatisfactory to me, and at that point I realized that
18 I could not represent him going forward.

19 Q Did Mr. Heaston identify -- there were a lot of
20 individuals in those, correct?

21 A If I recall correctly, yes. Yes.

22 Q Did Mr. Heaston identify himself in any of those
23 photos?

24 A No. He said that, It's definitely my twin.

25 Q All right. Did he tell you that he was not in any of

1 those photos?

2 A The sum and substance of the conversation was by text
3 message -- which I'm willing to share with the Court if
4 Judge wants -- but the sum and substance of the conversation
5 was that, How can you or your brother be friends with
6 somebody who essentially screwed you out of a deposit? And
7 his response was, What date is that Facebook -- Facebook
8 post from? And this woman, she -- she can do weird stuff
9 and modify these images. And at that point, I -- I -- I
10 didn't -- I didn't think it was a satisfactory answer from
11 him.

12 Q So on August 3rd after your communication with the
13 plaintiff, you withdraw -- you decided to withdraw as his
14 attorney?

15 A I filed a motion with the Court outlining my reasons,
16 and the Court granted my application.

17 Q And that is after you had settled with Borris, Inc.,
18 correct?

19 A Absolutely.

20 Q So did you ask Plaintiff to return any of the money he
21 received from the Borris, Inc. settlement?

22 A If Alex or his clients would have reached out to me and
23 told me about these things, I would have, of course, spoken
24 to him about it.

25 Q Sir, as an attorney, did you ask your client to return

1 any of the money with respect to the settlement that he
2 received from Borris, Inc.?

3 A The private defendants didn't ask for it, and since
4 they didn't ask for it, my answer -- my -- to answer the
5 question, the answer is no.

6 Q Instead on August 6th you made an application to
7 withdraw as counsel, correct?

8 A That date seems about right.

9 Q Did Plaintiff tell you to withdraw as counsel or did he
10 want his case withdrawn?

11 A I filed my -- I don't recall when I filed my motion to
12 withdraw. But as the motion was pending or my application
13 was pending, Plaintiff said, I can't go forward with this by
14 myself. I advised him he can get another lawyer. He can
15 get a *pro bono* lawyer, but -- or he can get somebody on a
16 contingency, like I took the case on, but I can't -- I
17 cannot go forward with the case. And then he said, They're
18 lying. They're lying. What -- you know, How can this
19 happen to me? And I said, The judge only cares about the
20 truth. If you're telling the truth, then you have nothing
21 to worry about, you can move forward with this lawsuit, but
22 you can't do it with me.

23 Q Did Plaintiff tell you to withdraw the case?

24 A Not after it was too late, that I had already filed my
25 application to withdraw as counsel.

1 Q Did Plaintiff tell you at any point to withdraw the
2 case?

3 A He did, and I told him that I cannot do it. I think it
4 was -- it may have been after the judge granted my
5 application or my application was pending. And I told
6 him -- and I gave Judge Chen -- the link to Judge Chen's
7 chambers and deputy's phone, and I said, Either you get a
8 lawyer or we can call the judge or the Eastern District and
9 find out how to conduct the case on your own.

10 Q Did Plaintiff ask you to withdraw the case before you
11 filed your withdrawal application?

12 A I don't believe so.

13 Q According to you, you gave Plaintiff two options: One,
14 you could proceed *pro se*; or two, he could find an attorney,
15 correct?

16 A Or I -- I may have told him he can go to the *pro bono*
17 office in the Eastern District.

18 Q Okay. So three options, right?

19 A Yes.

20 Q But none of those options included the options to just
21 withdraw the case on August 3rd, 2020?

22 A I -- I -- I don't recall. But I do remember telling
23 him that I can't do anything for you, to contact the Court
24 and ask how to dismiss your lawsuit.

25 Q So did you advise Plaintiff to simply withdraw the

1 case?

2 A It was his choice.

3 Q Did you advise the plaintiff to withdraw the case?

4 THE COURT: I'm sorry. When, during the same
5 conversation?

6 BY MR. SUNDARAN:

7 Q In the month of October 2020 -- I mean, in August of
8 2020?

9 A I -- I told him that I cannot give him legal advice,
10 and then I gave him the option of --

11 UNIDENTIFIED FEMALE SPEAKER: He doesn't want
12 to -- it's a yes-or-no question. He doesn't want to answer
13 the question.

14 THE COURT: All right. I don't know whose voice I
15 just heard --

16 Q Sir --

17 THE COURT: -- but somebody's voice.

18 But let's move on, Mr. Sundaran.

19 BY MR. SUNDARAN:

20 Q Mr. Pawar, I'm just asking you yes-or-no questions.

21 Did you ask Plaintiff to simply withdraw the case at any
22 time in August of 2020?

23 A No. I was not in a position to give him legal advice.

24 Q Before you withdrew as his attorney, did you ask him to
25 withdraw the case?

1 A At any point?

2 Q Before you withdrew as his attorney.

3 A Yes, and he -- and he said no, I can't, because they're
4 messing with me.

5 Q And why did you ask him to withdraw the case before you
6 withdrew as attorney?

7 A Because things were piling up which weren't starting to
8 make sense.

9 Q And when did things start piling up and didn't start to
10 make sense?

11 A The photograph that he sent to me on August 3rd, and I
12 don't -- I don't know -- I don't know how long he had had
13 them for. When I -- when I got those pictures, I confronted
14 him with it, and he didn't have a satisfactory answer, so
15 that's when I decided that I'm not going to go forward with
16 it. And I'm not sure if I told him withdraw from the case.
17 I may have just said, I'm filing a motion to withdraw as
18 lawyer. I'm not giving you any legal advice. I gave him
19 the options. And then I said, if he really wanted to move
20 forward with the case, he would have to do something
21 different.

22 Q So you told him that in August of 2020 after Defendants
23 had served -- or filed their letter with the Court asking
24 for a hearing, correct?

25 A I think your letter was in July.

1 Q Yes, in July, I'm sorry. July 2020?

2 A No. It was after he sent me the photos, which I don't
3 know how long he had had them -- he had had them for, or if
4 he was setting a trap. But after I got the photographs, I
5 confronted him with it, and I was unhappy with his
6 responses.

7 (Pause in proceedings.)

8 BY MR. SUNDARAN:

9 Q Mr. Pawar, did you realize that those photos were
10 produced by Ms. Kirkland, correct?

11 A I have no idea -- I have no idea who produced those
12 photos.

13 Q There was an affidavit from Ms. Kirkland that was
14 filed; you're aware of that, right?

15 A Yes.

16 Q And those photos were referenced as an exhibit to her
17 affidavit; you're aware of that, right?

18 A I'll take your word for it.

19 Q All right. And that affidavit from Ms. Kirkland was
20 filed in connection with Defendants' sanctions motion,
21 correct?

22 (No audible response.)

23 THE COURT: Wait. I think we lost Mr. Pawar.

24 THE WITNESS: No, I'm here.

25 THE COURT: Oh, okay. Then you broke up. I only

1 heard half of your answer.

2 THE WITNESS: No, I -- I didn't give an answer.

3 Judge, I -- once I was released as counsel, I
4 wasn't necessarily paying attention to a case that I had
5 spent a lot of time on it, so I -- I didn't want to -- I
6 didn't want to spend any more time on a case that I had
7 wasted many hours on.

8 BY MR. SUNDARAN:

9 Q So the answer is --

10 THE COURT: So, Mr. Sundaran--

11 A So the answer is --

12 THE COURT: Well, hang on, Mr. Sundaran.

13 The record needs to be a little clearer. You keep
14 referencing Ms. Kirkland's affidavit being filed. It was
15 not filed in the state court?

16 MR. SUNDARAN: I'm sorry, Your Honor, yes.

17 Ms. Kirkland filed only one affidavit in connection with
18 this action, this lawsuit and was in support of Defendants'
19 Motion for Sanctions.

20 THE COURT: And was it after Mr. Pawar had
21 resigned as his -- or been allowed to withdraw as --

22 MR. SUNDARAN: It was -- it was served on the
23 plaintiff and filed after Mr. Pawar was dismissed.

24 THE COURT: Go ahead, Mr. Pawar. Finish your
25 answer. Maybe I'm the only one who did not hear all of it.

1 THE WITNESS: Yeah, Judge. I think -- I don't
2 think -- I had spent a lot of time on this case, and I don't
3 know exactly when Ms. Kirkland's affidavit was filed with
4 the Court in support of the sanctions hearing, but I knew
5 that I was -- believed that I was dismissed from the case
6 already, and I wasn't going around reading things that were
7 filed on ECF.

8 BY MR. SUNDARAN:

9 Q Mr. Pawar, when you said after the photos -- after
10 Defendants served you with the photos, you began to look at
11 it more careful, correct, the case?

12 A No.

13 Q Okay.

14 A After he -- after he -- you know, after he sent the
15 photos on August 3rd, I confronted Plaintiff about those
16 photographs. I didn't get a satisfactory response, and
17 that's when I filed my motion to withdraw. I think I've
18 stated --

19 Q Sir --

20 A -- that before.

21 Q Sir, did you confront Plaintiff with any of the housing
22 court documents that you attached to the --

23 A No.

24 Q -- Second Amended Complaint?

25 A No -- wait. I'm sorry, what?

1 Q The housing court documents that you received from
2 Defendants with the correct leases, did you confront
3 Plaintiff with that?

4 A With the correct, what?

5 (Continued on the next page.)

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1 DIRECT EXAMINATION

2 BY MR. SUNDARAN (Continued):

3 Q The correct leases in the housing profile. Defendants
4 produced the entire Queens civil housing court file to you,
5 right?

6 A I have an email, yes, okay.

7 Q In that housing court file, it linked the certificate of
8 occupancy, the statement or invoice for the renovations that
9 were being done to 84-21 Chapin Parkway, as well as leases in
10 connection with the apartment at issue at
11 84-21 Chapin Parkway, do you remember that?

12 A Okay, I'll take your word for it.

13 Q Did you confront plaintiff with any of those documents?

14 A Yes.

15 Q What did you say to him when you confronted him with
16 those documents?

17 A I said, how do you explain the fact that there are other
18 tenants at this place where you supposedly had a lease with?
19 And he said, it happens all the time where you have --

20 You know what, Judge, I don't recall exactly what he
21 said. I don't want to make anything up, so I don't recall
22 what he said.

23 But he was confronted about that fact, yes.

24 Q The housing court file also contained affidavits from
25 Mr. Vyacheslav Kandkhorov and Edna Davoudi, do you remember

1 that?

2 A Yes, I believe so, yes.

3 Q Did you confront plaintiff with those affidavits?

4 A His position was, it didn't matter if they were moving to
5 vacate the default, there was an order from the state court in
6 effect at the time he was arrested.

7 Q Mr. Pawar, just to sum this up, the whole predicate of
8 your lawsuit on behalf of plaintiff was based on the housing
9 court order?

10 A And plaintiff's statement to me, yes.

11 MR. SUNDARAN: Your Honor, if I could just have a
12 moment to confer, I think I might be done.

13 THE COURT: Yes, okay.

14 MR. SUNDARAN: Nothing further, your Honor.

15 THE COURT: Okay, thank you.

16 Mr. Sullivan. Mr. Sullivan, do you have any
17 questions? Mr. Sullivan, are you still on the call?

18 MR. SULLIVAN: Yes.

19 THE COURT: Okay, yes, we can hear you.

20 Do you have any questions for Mr. Pawar?

21 CROSS-EXAMINATION

22 BY MR. SULLIVAN:

23 Q Mr. Pawar, how did you first meet the plaintiff?

24 A Another attorney looked over his case, and he walked to
25 my office with plaintiff and he stated -- excuse me -- Judge,

1 I'm just going to drink some.

2 THE COURT: Okay. Everyone else, please mute their
3 phones.

4 A I first met Mr. Heaston when he came to my office with an
5 attorney, and the attorney showed me the documents that
6 Mr. Heaston had. And the attorney told me that this is a very
7 interesting case take this on. I looked at it. I said, let
8 me talk to him. The attorney left. Then I spoke to
9 Mr. Heaston about the documents that the other attorney came
10 to me with.

11 Q About how long was your interview with Mr. Heaston?

12 A I would say 30 minutes to an hour.

13 Q And did you prepare a notice of claim on that day?

14 A I may have, I don't know. I don't recall the date that I
15 met Mr. Heaston, but I do recall his signature on the notice
16 of claim.

17 Q Let me ask you this, other than when you met Mr. Heaston
18 at your office that was brought to you by the attorney, when
19 was the next time you saw him after that?

20 A I can't tell you, but I can tell that you we communicated
21 by text almost on a regular basis.

22 Q My question was, when was the next time that you saw him
23 physically?

24 A I don't recall.

25 Q You had never since the day met him sign that notice of

1 claim; isn't that correct?

2 A I missed the first part of the question.

3 Q Is it right, counselor, since the date that he came and
4 signed that notice of claim that you have never met him since
5 that time personally?

6 A That's absolutely false.

7 Q Where did you meet him subsequently?

8 A In my office.

9 Q When was that?

10 A Sitting here, I don't know.

11 Q Do you knowing what the circumstances were that caused
12 you too see him a second time?

13 A It may have been with an issue that he was having with
14 the police when he had called me in the middle of the night
15 saying, I'm being harassed by this police officer, my
16 girlfriend and I are being harassed by this police officer.

17 And I told him, I said, don't do anything
18 irrational, come and see me in any office at some point.

19 So I don't --

20 Q In regard to this case, this litigation, other than
21 when -- on the date the notice of claim -- when you first saw
22 him, by the way, May 8 does that sound about the right when
23 you first met him?

24 A I don't know.

25 Q Did you do intake agreement?

1 A I believe I did, yes.

2 Q Would the retainer agreement and notice of claim would
3 have happened on the same date?

4 A The retainer agreement would have been on the done on the
5 same date. The notice of claim, I don't know.

6 Q And other than the date that you signed the notice of
7 claim, and you mentioned he called about something else, in
8 regard to this particular case did you ever meet with him in
9 person again?

10 A Yes. He came in late once for his 50-H Hearing. He
11 said -- I don't know -- he said, I'm driving in. And then he
12 said the traffic was bad. He came upstairs. I don't know if
13 he had his kid with him or not. But I said, look, it's late
14 but if you want to go forward with this lawsuit next time
15 there is a 50-H Hearing you got to be here on time. The next
16 time there was a 50-H Hearing, I couldn't be there he came and
17 met with my partner.

18 Q So after the 50-H Hearing -- by the way, by the time of
19 the 50-H Hearing you had already started the lawsuit?

20 A I had at the time of the 50 -- look, the record speaks
21 for itself. I don't know what date the 50-H Hearing was. My
22 complaint was filed on a certain date. The Judge can take
23 notice of what happened first.

24 Q But my question is, as you sit here now, you have no
25 recollection as to whether the 50-H Hearing was done before or

1 after the lawsuit was first filed, correct?

2 A That is correct.

3 Q And when you first filed the lawsuit -- before you filed
4 the lawsuit you never sent the copy of the complaint to the
5 plaintiffs, did you?

6 A If your question is whether the plaintiff reviewed the
7 contents of the complaint, the answer is no. But, everything
8 in the complaint was information that I received from the
9 plaintiff.

10 Q But after you prepared the complaint, you never sent a
11 copy to the plaintiff; is that correct?

12 A I rarely do; that is correct.

13 Q And as far as what goes into the lawsuit, what facts to
14 include in the lawsuit, that was your decision; is that
15 correct?

16 A No. My decision is to the legal causes of action. The
17 facts come from the client.

18 Q Well, the complaint here, sir, isn't it fact that the
19 complaint here stated notice of claim was a false arrest on
20 April 2019 at 2:00 p.m.

21 A That's what the notice of claim states, yes.

22 Q And you said that to put in that it was due to arrest,
23 negligent assault, and battery; is that correct?

24 A Yes. For state law claims usually if you touch somebody
25 that's considered battery, even there was no excessive force.

1 Q But you were the one that put those things in, correct?

2 A The legal aspect of it, yes, that's correct.

3 Q As far as the injuries are concerned, what injuries did
4 he tell you that he said he received in the course of the
5 arrest?

6 A He talked about things, traumatized, talked about being
7 psychologically affected, he talked about his family
8 witnessing his arrest, afraid to come back to his place, which
9 he rented. He talked about how he was afraid the police. He
10 talked about that he couldn't trust the system. So that's
11 what he said.

12 Q What about physical, what physical injuries did he tell
13 you how he got those physical injuries?

14 A He talked about when he was handcuffed, the handcuffs
15 were tight.

16 Q That's the only injury that he said to you; is that
17 correct?

18 A That is correct, physical injury.

19 Q Right. He never said anything about his head, neck,
20 eyes, his ears, his mouth, his --

21 (Audio interruption.)

22 Q -- did he?

23 A When you file a notice of claim at an early stage you
24 have to cover a wide spectrum of injuries. You don't know
25 what could happen to the plaintiff from his wrist from the

1 handcuff injury. So did he complain about his neck hurting?
2 He may have. Did he complain about his head hurting? He may
3 have, when he was put inside the car or the police car after
4 his arrest. But his ears, head, it's something that you have
5 to be careful; otherwise, God forbid something happens the
6 client turns around and sues you for malpractice.

7 Q I don't want to get into malpractice. What I'm just
8 asking is, he didn't tell you to put in this thing that he had
9 injury to his body, head, neck, eyes, mouth, and face, and
10 legs, he never told you that, he never uttered those words to
11 you; isn't that correct?

12 A What is correct is that he reviewed the first few pages
13 before he signed it. If he objected to any of the things that
14 I put in there, I would have taken it out.

15 Q I'm not asking if he objected. I'm saying, it was your
16 idea to put those things in, not his idea.

17 A Yes, but he looked at when he signed it.

18 Q That is after you put it on the notice of claim; is that
19 correct?

20 A Yes, I prepared the notice of claim. I asked him to
21 review it. And then he signed the back of it.

22 Q You told him to sign it, correct?

23 A Well, I didn't put a gun to his head. He wanted to move
24 forward with the lawsuit so, yes.

25 THE COURT: Let's move on, Mr. Sullivan. I get the

1 point. Move on, please.

2 Q (Audio interruption.)

3 A Repeat the question.

4 Q With respect to the attachments to the complaint, he
5 never told you what attachments to put on the complaint to put
6 any attachment, did he?

7 A I thought it was a very good idea to attach the judge's
8 civil court order to the complaint.

9 Q Just whether or not he told you to do that.

10 A No, it was an independent judgment by me.

11 Q And my understanding is you said filed a second amended
12 complaint, correct -- you filed an amended?

13 A I did a first amended. And I think the last one was a
14 second amended, that's correct.

15 Q Isn't it correct to say you never sent the plaintiff any
16 of those copies of those complaints?

17 A It's true that he did not review or receive the copy of
18 the first, the initial, complaint the first amended complaint
19 or the second amended complaint.

20 Q Did you ever send a letter to the plaintiff or e-mail to
21 the plaintiff saying, I have filed a lawsuit on your behalf in
22 federal court?

23 A No, because he knew that I did.

24 Q And how did you indicate to plaintiff that you had
25 actually filed a complaint in federal court? How did you do

1 that?

2 A I'm sorry, could you repeat your question please?

3 Q What had you said that he knew you filed a federal
4 Lawsuit? My question to you is how did you make him know
5 that? Did you e-mail him? Did you send a letter to him? How
6 did you notify him that you had filed a federal lawsuit on his
7 behalf?

8 A Okay, two answers to your -- I'm going to answer that in
9 two-parts.

10 Number one, he knew the process of the 50-H Hearing,
11 and after the 50 hearing a lawsuit would happen. That's one.

12 Number two, he sent me a text message. I don't know
13 who it was from, but somebody was mocking him, telling him --
14 and I remember it was a screen shot of the docket sheet -- and
15 the person, whoever the person was, was telling him, so your
16 case got dismissed again, huh.

17 Then he told me, with a snap shot of the lawsuit,
18 saying, Look, what I'm going through. This woman will not
19 stop harassing.

20 So he was aware of the federal lawsuit because he
21 sent me a picture of the docket sheet.

22 Q Do you knowing when he sent you the picture of that
23 docket sheet approximately as to when?

24 A Give me a second. There was one on June 23.

25 Q Is that June 23 of 2020, sir?

1 A Yes.

2 Q This was him communicating to you about this lawsuit,
3 right, picture of the lawsuit, right?

4 A Well --

5 Q Of the docket sheet?

6 A I told him we have a conference in a couple of weeks.

7 Then I said, Is the sister crazy? Why would she say you're
8 faking the lawsuit?

9 Then he said, Bitch call ACS on her own sister. I
10 can send you all the text how she is doing brutal to destroy
11 us.

12 Then he sent a lengthy text. Then a text message
13 from somebody, something about checkmate, got exactly what I
14 wanted.

15 And then it was a docket sheet from.

16 Q Were those communications between yourself Margaret
17 Kirkland and Mr. Heaston?

18 THE COURT: Let's curtail this line of questioning.
19 It's not relevant because it's so late, June 23, 2020 is after
20 the second amended complaint was filed.

21 The question is, Mr. Pawar, what, if anything, did
22 you do to notify Mr. Heaston about the filing of the initial
23 lawsuit. Now you mentioned the 50-H Hearing and what appears
24 to me an assumption that he know that what happened after the
25 50H claim being filed was a lawsuit, filed in federal court.

1 But what, if anything, did you do to notify him about you
2 filing the first complaint, not in June 2020, the first
3 complaint filed a year earlier?

4 THE WITNESS: Judge --

5 (Audio interruption.) --

6 THE WITNESS: -- the question is whether Mr. Heaston
7 was aware of an existence of lawsuit. He knew that I was
8 settling the case with the private defendants and he requested
9 I send him a check.

10 THE COURT: How did he know that?

11 THE WITNESS: I communicated with him saying, look,
12 the private defendants want to this much money. And he said
13 okay. And then he asked me, Can I come pick up the check in
14 your office.

15 There was some interval between when I got the check
16 from the defendants. And then when I received the check he
17 called me and said, Can I come and pick it up in the office?
18 I said no because no one is in the office because of
19 Coronavirus, but if you give me the address I can mail you the
20 check. I mailed the check. I asked him, Did you get the
21 check? He replied in the affirmative.

22 THE COURT: Again, wasn't that in 2020 as well?

23 THE WITNESS: Yes.

24 THE COURT: Let's talk about when you filed the
25 complaint, focus on that period. What did you do to let him

1 know that you filed a federal case? What would happen next
2 after you filed it?

3 THE WITNESS: Usually when I file -- I cannot
4 independently, your Honor. But when a client comes into my
5 office and signs retainer and the notice of claim, they ask me
6 what the process is. And I explain the process that usually I
7 have to follow. I'm going to go forward with the federal
8 lawsuit because you have receipts here, you have the Housing
9 Court order. Then after you do your 50-H Hearing, we'll
10 include your state law claims.

11 So those are the types of conversation that I have
12 with my clients on a regular basis. To suggest that I would
13 not have had one with this particular client, would be
14 extremely unusual.

15 BY MR. SULLIVAN:

16 Q But you have no specific recollection regarding this
17 particular client; isn't that correct?

18 A Yes, that is correct.

19 Q And --

20 (Audio interruption.)

21 Q -- look this over to make sure it's okay, none of that,
22 right?

23 A Like I said, no client -- very rarely does a client
24 review a copy of the complaint before it's filed.

25 Q That's your answer, that you never did that, right?

1 A I don't believe so, no.

2 Q You mentioned the settlement with the five defendants.

3 Would it be correct to say, sir, that as an attorney you don't
4 have to file a lawsuit in order to settle a case with someone,
5 right?

6 A If happens, but it has never happened in a 1983 or 1981
7 case.

8 Q Did my client know anything about 1983 and 1981 and who
9 all the defendants were?

10 A Well, he told me Salim Blake was one of them, Borris was
11 one of them. Then I asked him, What do they look like? And
12 he actually -- I asked him, Do you see post, the ad for the
13 apartment? He said, My girlfriend or wife saw it on
14 Craigslist. I asked for the information on the Craigslist.
15 He said he didn't have it. We exchanged some photographs. I
16 said, Does this look like him? He said, Maybe, but he was of
17 West Indian descent.

18 So, I apologize, what was your question? I'm sorry.

19 Q You never had any discussion with him about 1983, 1981 or
20 who the culpable parties who are defendants in the lawsuit,
21 you never had any such conversation with Mr. Heaston; isn't
22 that correct?

23 A I didn't have a conversation with him about 1981 or 1983,
24 because most people wouldn't understand that. But I did have
25 a conversation about who we could name as possible defendants.

1 He told me the officers who arrested him, and the owner of the
2 building, and the person that he signed, the person he gave
3 the deposit to, and the realtor who was instrumental in this
4 whole deal with him, and the landlord.

5 Q Is it your testimony that the client was telling you who
6 should be sued?

7 A No. But he was telling me possible people and I made the
8 determination of -- I asked him, who was the broker who did
9 this? And he said, he didn't give me a name, but he said the
10 building is owned by Borris, and the realtor is so and so, and
11 the officers, and Salim Blake. That was information I didn't
12 pull out of thin air. He gave that information to me.

13 Q He didn't know the officers names, did he?

14 A No, neither did I until I got the sources from the city.

15 Q You got certain discovery in the case. Did you ever
16 share that discovery with the plaintiff?

17 A No.

18 Q After you turned over the file, I know you turned over
19 the file at a certain point when you withdrew. Prior to
20 withdrawing, had you turned over any of the discovery with the
21 police reports or anything provided to you by the city to the
22 defendants?

23 A I discussed the information that I received about the
24 wanted poster and the blinds or what the private defendant had
25 said earlier about they put the locks in. And he gave me a

1 whole list of things that he owned that were missing from his
2 apartment and that's why he called 911 to report a burglary.

3 Q My question, sir, is whether you turned over the
4 discovery documents that were provided to you by the city,
5 whether you turned them over to Mr. Heaston prior to giving
6 him his file when you withdrew?

7 A I couldn't, I was still his lawyer. But I discussed the
8 contents of what was given to me by the city with him.

9 Q And would it be correct to say --

10 (Audio interruption.)

11 MR. SULLIVAN: Am I back?

12 THE COURT: Yes.

13 BY MR. SULLIVAN:

14 Q Would it be correct to say that your main mode of
15 communicating with Mr. Heaston was to through text messages?

16 A And by telephone.

17 Q Are we lost again?

18 A No.

19 Q Hello?

20 A I said by text message and telephone.

21 MR. SULLIVAN: Hello? I can't hear anything.

22 THE COURT: Yes, I can hear you.

23 Mr. Sullivan, are you still there?

24 BY MR. SULLIVAN:

25 Q Would it be correct, sir, that your main mode of

1 communicating with the plaintiff was through text messages?

2 A By text messages and telephone calls.

3 Q After you told him about these problems, rather these
4 allegations that were made, isn't it a fact that he told you,
5 sir, that you should just withdraw the case?

6 A First I asked him for an explanation about the pictures,
7 which was turned over to me on August 3rd. And he gave me
8 several reasons why I should not believe what the pictures
9 depict.

10 Let me finish my answer.

11 At that point, I had reason to believe that I could
12 not fully cause this action, and I filed my motion to
13 withdraw. He may have asked me to dismiss the case. And I
14 told him, I said, if you believe in what is right you can
15 either hire another lawyer, go to the pro bono office, or
16 continue with the lawsuit on your own. But I cannot give you
17 any legal advice because my application to withdraw is
18 pending. I don't know if I told him in such words, but.

19 Q But he gave you permission to withdraw the case, but you
20 told him you couldn't do it, correct?

21 A That's not true.

22 Q Okay, what did you tell him?

23 A My application to withdraw was pending so I could not act
24 on his behalf while I had issues, I had reason to believe that
25 I may not have been -- I don't know how to answer that

1 question, Judge.

2 Q Let me ask it another way first.

3 Is it correct to say that he asked you to withdraw
4 the case because he thought it was inappropriate because you
5 were asking to withdraw as attorney?

6 A That's not true.

7 Q Isn't it a fact that he told you to withdraw the case?

8 A That's after I filed my motion to withdraw. And I think
9 after the judge granted my motion to withdraw.

10 Q And is that the subject of text messages? Is that how
11 that was communicated?

12 A I believe so, yes.

13 Q So you would have the exact date on your phone as to when
14 he asked you to withdraw the case; isn't that correct?

15 A Yes, I think so.

16 Q You didn't happen to erase those text messages, have you?

17 A No.

18 Q When you met with the plaintiff for the first time, when
19 you decided to accept this case for prosecution, did he show
20 you a letter from the Queens District Attorney's Office
21 indicating that they were dismissing the case?

22 A I believe that was one of the documents that I saw the
23 first time I met him, yes.

24 Q What was the significance of that document to your
25 decision whether to take this case or not?

1 A Well, it was significant issue because if the DA had
2 prosecuted him or indicted him it would have created a
3 presumption of probable cause and it would have made the case
4 a little more difficult. The fact that the DA dismissed it
5 led me believe that the charge he was arrested for were false.

6 Q The lawsuit, was for the false arrest that occurred that
7 day based on that letter from the DA's office?

8 A Yes, but I should clarify for the record, the initial
9 complaint had contained mal-pros and denial of right to a fair
10 trial. After it was brought to my attention, not from the
11 client but from the city, that there was no prosecution, and
12 there was no denial of right to a fair trial, then I believe
13 either the first or second amended complaint, those causes of
14 action were withdrawn. So to answer your question, false
15 arrest, yes.

16 (Continued on the next page.)

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1 (Via videoconference.)

2 CROSS-EXAMINATION

3 BY MR. SULLIVAN (continuing):

4 Q By false arrest, it was meant so -- at the point where
5 you called the plaintiff did you know the reasons why
6 plaintiff had been arrested?

7 A I'm sorry. Did I know? Could you repeat your question,
8 please.

9 Q At the time you met with the plaintiff for the first
10 time, did you know the basis of the arrest?

11 Did he know why he was arrested or what the legal
12 charges were against him?

13 A No. The first time I met plaintiff, he said that he was
14 just going back to his apartment with his family, and he
15 called 911 because his property was missing and the cops came
16 and arrested him. So I don't think he knew why he was being
17 arrested.

18 Q And you said you were shown certain photographs in
19 discovery, and it was your opinion that the person depicted in
20 that photograph depicted a black male but did not appear to be
21 the plaintiff; is that correct?

22 A Look, I don't want to put myself in a difficult position,
23 not because of your questions, but it was the nature -- it was
24 hard for me to decipher who the individual was on those
25 camera -- I guess a screen shot from a video.

1 Q So it was not clear to you at that point, from looking at
2 that photograph, you didn't form the opinion that that was the
3 plaintiff; is that correct?

4 A It's still not clear to me.

5 THE COURT: Okay. Let's move this along,
6 Mr. Sullivan.

7 MR. SULLIVAN: I'm almost done.

8 THE COURT: Okay.

9 (Pause.)

10 MR. SULLIVAN: I have nothing further, Your Honor.

11 THE COURT: Thank you, Mr. Sullivan.

12 Mr. Pawar, I just have a few very focused questions
13 for you.

14 THE WITNESS: Yes, judge.

15 THE COURT: You said you talked with Mr. Heaston for
16 about a half an hour the first time you met. Is that right?

17 THE WITNESS: Judge, I believe my testimony was
18 between a half hour to an hour.

19 THE COURT: Okay. And as best you recall, what
20 exactly did Mr. Heaston tell you about the circumstances that
21 led to his arrest?

22 THE WITNESS: That he had -- judge, if you just give
23 me a moment to jog my memory.

24 He said he had rented the place and he had receipts
25 and he had got the place from -- from -- from -- excuse me --

1 information from Craig's List and that he had paid all this
2 money and that the first time he went the landlord had locked
3 him out. So, and he had family and kids with him. And I felt
4 really bad. I really did.

5 Then he said that the next time the situation
6 happened, they had changed the locks on him -- no. They
7 changed the locks on him the first time. I don't know how he
8 got possession of the property again. I don't know if he got
9 a locksmith or not, but he gained possession of the property
10 again.

11 And then I remember him saying and then I went back
12 to the place -- I believe it may have been April 29, Your
13 Honor -- and he said that the place had been burglarized and
14 my wife and my kids were out on the street crying.

15 Actually, no -- yeah -- no -- no. I apologize,
16 judge.

17 So after the second time he was locked out, he went
18 to family court and he got the order; and then the third time
19 he went there, he went inside and found that a bunch of his
20 belongings were missing. So he told me that he called 911 and
21 when the police arrived he showed them the order from the
22 family court and -- I'm sorry, the housing court -- and then
23 the police arrested him anyway. I felt this was a massive
24 miscarriage of justice.

25 So I thought this was a very good case and I signed

1 him up.

2 THE COURT: Okay. Now, attached to the second
3 amended complaint was this housing order and then some
4 receipts.

5 THE WITNESS: Yes.

6 THE COURT: When did Mr. Heaston give you those
7 documents?

8 THE WITNESS: I believe they were -- I believe they
9 were --

10 THE COURT: Hang on. Let me back up.

11 Did he give you any documents the first time you
12 met?

13 THE WITNESS: Absolutely. He came with the other
14 attorney with documents with him, yes.

15 THE COURT: Which ones, if you recall?

16 THE WITNESS: I believe it was the -- the housing
17 court, the housing court order and the receipts.

18 THE COURT: Okay. The receipts were supposedly from
19 Borris, Inc., showing he had paid a security deposit and first
20 month's rent?

21 THE WITNESS: Yes. And I believe, judge, he also
22 showed me a lease with his name on it for two years. Then for
23 the second or third month, which really bothered me at the
24 time, that this could happen to someone.

25 THE COURT: Okay. Now, if I'm not mistaken --

1 THE WITNESS: I apologize. I didn't realize my
2 thought process at the time, but that's what I was thinking,
3 was that this guy has two years of lease and he keeps getting
4 arrested and he's got an order from the court.

5 THE COURT: Actually your internal thoughts are
6 relevant because, of course, you are being accused of having
7 violated your duty of care in this case.

8 Correct me if I'm wrong, but I don't believe you
9 attached any of the documents that we just discussed, the
10 housing court order, the receipts, or any lease to the first
11 complaint. Is that correct?

12 THE WITNESS: That is correct, judge.

13 THE COURT: And is there a reason why?

14 THE WITNESS: Judge, if I can just look at my file
15 and look at the initial complaint that I filed, I will tell
16 you.

17 THE COURT: Let me just say this. The records speak
18 for themselves. I can tell you that, based on the docket,
19 there aren't any documents attached to the original complaint
20 and the first amended complaint.

21 I just wanted to know if you recall -- and, if you
22 don't, say so -- why you didn't attach those documents the
23 first time around.

24 THE WITNESS: I don't know, but I do know that I did
25 have a copy of the New York City court's order because I

1 mentioned it in paragraph 19.

2 THE COURT: All right. You didn't just take that on
3 face value. You actually recall having the physical order?

4 THE WITNESS: Yes, judge.

5 THE COURT: All right. One last question, then.

6 You mentioned that eventually you decided that you could not
7 represent -- did not feel comfortable representing Mr. Heaston
8 any more, and that decision came about or was prompted by the
9 photographs sent to you that purport to be from Salim,
10 S-A-L-I-M -- I'm sorry, now I have forgotten the last name.

11 THE WITNESS: Blake.

12 THE COURT: I'm sorry?

13 THE WITNESS: Blake.

14 THE COURT: Yes, Blake. I'm sorry. Salim Blake,
15 one of the original defendants. Was the fact that -- or let
16 me figure out how to phrase this correctly.

17 Was your concern that the photographs you received
18 seem to show your client, Mr. Heaston, with Salim Blake in a
19 very comfortable and friendly manner, and you didn't feel like
20 Mr. Heaston's answers about the photos allayed the concerns
21 you had?

22 THE WITNESS: Absolutely, and quite the contrary,
23 judge. He was coming up with reasons as to why I should not
24 believe that those photographs were authentic; but I didn't
25 feel comfortable with his explanation.

1 THE COURT: Did you come to suspect or worry that
2 Mr. Heaston and Mr. Blake had a close relationship at the time
3 this case was brought to you?

4 THE WITNESS: Judge, I was -- Your Honor wants to
5 know the state of my mind. I thought I was taking on a noble
6 cause, to take on a case, and that I wasted all this time; and
7 I came to believe that it's not something that I signed up
8 for, and I think it was time for me to be not part of the
9 case.

10 I had advised -- and I had advised Mr. Heaston that
11 if you lie you could be subject to perjury, but if you are
12 telling the truth then you should let the judge know about all
13 these conspiracy theories that you are telling me, but I don't
14 feel comfortable going forward with this.

15 THE COURT: Remind me. The original complaint
16 alleged that Salim Blake was responsible for what, though, for
17 which he was liable in the lawsuit?

18 THE WITNESS: I'm looking up, judge.

19 THE COURT: You know what. I will look at the
20 document. We don't need to waste any time with that.

21 THE WITNESS: Yeah. It says, on paragraph seven, it
22 says, Defendants Borris, Inc., Salim Blake, and Jane, in
23 quotations, Blake, quotations, private defendants, are, upon
24 information and belief, a New York corporation or otherwise
25 residents of the State of New York.

1 THE COURT: Right, but I wasn't sure what exactly
2 they had done. Were they responsible supposedly for keeping
3 him -- so Mr. Blake was supposedly the landlord, I guess.

4 THE WITNESS: Right, which he had the receipt for
5 Borris, Inc., but then signed by Salim or someone Blake.

6 THE COURT: And that's the document you attached to
7 the second amended complaint, I believe?

8 THE WITNESS: That's correct, judge.

9 THE COURT: Thank you very much. Those are the
10 questions I had.

11 Very quickly, Mr. Sundaran, do you have any
12 follow-up based on what I have just asked?

13 MR. SUNDARAN: Very quickly, Your Honor.

14 REDIRECT EXAMINATION

15 BY MR. SUNDARAN:

16 Q Mr. Pawar, did --

17 MR. SUNDARAN: Ms. Shin, if you could put up
18 Defendants' 50-H (SIC), Exhibit 2. It's the cover page.

19 (Published.)

20 Q Mr. Pawar, do you recognize this as the 50-H transcript
21 for plaintiff on November 13, 2019?

22 A Yeah. That's the first page, and I think there are other
23 pages, but, yes.

24 MR. SUNDARAN: Okay. Ms. Shin, can you go to
25 Defendants' A, please.

1 (Published.)

2 Q Do you recognize this as the initial complaint filed on
3 October 2, 2019, a month earlier?

4 A Yes, yes.

5 MR. SUNDARAN: Ms. Shin, can you go to Exhibit B,
6 please.

7 (Published.)

8 Q Mr. Pawar, do you recognize this as the first amended
9 complaint you filed on October 9, 2019, also a month earlier
10 to the 50-H?

11 A Yes, yes.

12 Q Was plaintiff aware that an original complaint or first
13 amended complaint had been filed at the time that he sat for
14 his 50-H hearing?

15 A Honestly, I don't know. I mean, he should have been.

16 Q Sir, did you tell him that you filed two complaints on
17 his behalf prior to him sitting for his 50-H?

18 A I wasn't present at his 50-H, but I don't know. I don't
19 know.

20 Q Mr. Pawar, do you understand the difference, as a
21 practicing attorney, the difference between probable cause to
22 arrest and probable cause to prosecute?

23 A Yes.

24 Q And defendants filed a sanctions motion against you as
25 well. Were you aware of that?

1 A I am today.

2 Q And is there a reason why you didn't file any opposition?

3 A Because the court's ruling was you withdraw within 21
4 days the offending pleading, which, I take it, happened; and I
5 withdrew from the lawsuit.

6 So, I mean, are you accusing me of violating
7 Rule 11? I suppose you are, but I don't suppose there is
8 anything else I could have done and, therefore, the
9 information I had at the time I filed these complaints.

10 Q You withdrew as counsel, not the complaint, correct?

11 A Well, from what I understand the lawsuit was dismissed
12 with prejudice.

13 Q You withdrew yourself as counsel, not the complaint,
14 correct?

15 A I did not withdraw the complaint, correct.

16 MR. SUNDARAN: Nothing further, Your Honor.

17 THE COURT: Mr. Sullivan, anything else from you?

18 RECROSS-EXAMINATION

19 BY MR. SULLIVAN:

20 Q Sir, in the later stages of the proceedings, after he
21 told you about seeing the lawsuit and in between the docket
22 sheet he sent you, did he also send you messages indicating
23 that he was having -- that there was animosity between himself
24 and Margaret Kirkland? Is that correct?

25 A I don't know her name, but I know he was sending me

1 messages about him having animosity with his mother-in-law,
2 yes.

3 Q Did you see messages that he sent you indicating that she
4 was going to destroy him?

5 A I got something along those lines, yes.

6 MR. SULLIVAN: I have nothing further.

7 THE COURT: Okay. Thank you. Now let's address the
8 procedural question.

9 Mr. Pawar, you are free to go. Thank you very much.

10 THE WITNESS: Judge, may I just ask Your Honor for
11 one indulgence?

12 THE COURT: Yes. What's that?

13 THE WITNESS: If Your Honor wants me to submit
14 something in the Rule 11 sanctions, I will be happy to do it.

15 THE COURT: Well, the only question, I suppose, is
16 whether or not it would be worthwhile to get your text
17 messages with Mr. Heaston, which might show the chronology of
18 events, as well as a document that you testified to in terms
19 of notifying Mr. Heaston as to the various stages of his
20 lawsuit starting from the filing of the complaint onward.

21 Have you actually kept all of your texts with
22 Mr. Heaston, as best you recall?

23 THE WITNESS: I believe I do, judge, but I wanted to
24 address Mr. Sundaran's question, and just may I address.

25 When I file a complaint in federal court, whether

1 it's a personal complaint -- an initial complaint, the first
2 amended complaint, or the second amended complaint -- either I
3 have explicit or expressed knowledge and directions from my
4 client before I do that. I don't just go around filing
5 complaints without letting the client know that a lawsuit is
6 filed.

7 I have hundreds of these lawsuits going on at any
8 time. Actually, not hundreds, maybe 10, 15; and the client
9 knows that I'm filing a lawsuit. It's not something that I'm
10 doing behind the client's back.

11 THE COURT: Understood. I understand that's your
12 position, and fair enough.

13 It also sounds like the reason you didn't respond to
14 the sanctions motion is that you stopped monitoring the docket
15 after you withdrew.

16 THE WITNESS: Yeah, but I must say, I was getting
17 e-mails from the City Law Department attaching the motion and
18 addressing -- I do remember seeing something that, since I
19 filed an opposition I should be considered in default and I
20 should be sanctioned for my conduct.

21 THE COURT: All right. Let me hear from the
22 defendants' attorney about what happens next, because I have
23 enough information, I think, to resolve these motions, this
24 motion. I don't think I need to hear from the detective. I'm
25 not sure what it would add exactly.

1 To me, it comes down to did Mr. Heaston mislead his
2 attorney and provide false information to him that led
3 Mr. Pawar to file what turned out to be -- fairly clearly to
4 me to be -- a fraudulent complaint, in that it's based on a
5 fraudulently obtained housing court order and false claims of
6 a right to live in or access the premises in question.

7 Then, there is the issue of did Mr. Pawar fail to
8 carry out his duty.

9 It's clear the City is arguing to independently
10 verify this information or later respond when contrary
11 information surfaced and was provided to Mr. Pawar. Beyond
12 that, I don't see -- rather, I see that as a focus of the
13 motion for sanctions. And I don't know if the detective's
14 testimony would add anything to that.

15 So I don't want to prolong or keep the hearing open,
16 and I'm prepared to take this under advisement and simply rule
17 based on what I have already heard and the prior submissions
18 of the parties.

19 So let me hear first from defense counsel.

20 MR. SUNDARAN: Yes, Your Honor. Raju Sundaran.

21 Just before I respond, two quick questions. I just
22 want to make sure that Exhibits O and Q have been admitted
23 into evidence. That's the notice of claim and the 50-H
24 transcript.

25 THE COURT: Yes, they were.

1 MR. SUNDARAN: Okay, okay. Your Honor, the only
2 reason that we intended to proffer Detective Portillo is that
3 the standard for the inherent powers of the court to sanction
4 a litigant include whether or not the plaintiff or the
5 litigant had any colorable basis for his claims. What we were
6 going to proffer Detective Portillo for was to lay out the
7 foundation for the PC for the arrest, which Mr. Sullivan has
8 now raised as an issue, saying that they didn't have probable
9 cause because the D.A. dismissed it.

10 That would be our only reason to have Portillo
11 testify, basically to lay out the fact that he had probable
12 cause for the arrest, based on statements by complaining
13 victims.

14 THE COURT: Right, but I'm not sure I understand
15 that. The plaintiff went to Mr. Pawar, as I understand it,
16 and said, here is what happened.

17 MR. SUNDARAN: Right.

18 THE COURT: I think at this point it's clear to me
19 that that was all false; but he reportedly said I have legal
20 possession of this apartment, I have been locked out, I called
21 the police on April 26, 2019, or called 911, and the police
22 showed up and arrested me instead of helping me gain access to
23 my apartment.

24 So the claim that Mr. Pawar alleged in the complaint
25 is that there was no probable cause. But that may not be the

1 case, based on further discovery or other evidence that would
2 be brought to bear in this case. Namely, maybe that the
3 officers really had probable cause because they knew this
4 whole thing was a scam or they believed that Mr. Heaston had
5 burglarized the apartment before. That doesn't make
6 Mr. Pawar's conduct violate Rule 11, nor do I think it
7 supports my inherent authority to find Mr. Pawar did anything
8 wrong.

9 The allegations he put into the complaint were
10 based -- and I should credit this testimony today -- upon the
11 plaintiff's allegations. There is always another side to the
12 story; and, obviously, that's what the defense would have
13 brought out, which was that there was probable cause based on
14 other evidence that Mr. Pawar was unaware of at the time he
15 filed the complaint.

16 So I'm not sure that it will probably change things
17 much for me to know that in fact the officers had probable
18 cause for the arrest. The question becomes: How would
19 Mr. Pawar have known any of this information?

20 MR. SUNDARAN: I accept, Your Honor. We will
21 dispense with the detective's testimony.

22 THE COURT: Okay. And certainly you can make an
23 argument, if you think I'm wrong. I mean, I guess the
24 question is -- I mean, I would prefer just to reserve on this
25 and rule. As I said, it's been briefed and, I think, the

1 facts, the relevant facts, have been elicited.

2 So, unless anyone objects, that's my proposal. I
3 don't think we need to convene any further evidentiary
4 hearing.

5 MR. SULLIVAN: May I respond, judge?

6 THE COURT: Yes, Mr. Sullivan.

7 MR. SULLIVAN: So somehow --

8 THE COURT REPORTER: I'm having a difficult time
9 hearing Mr. Sullivan.

10 THE COURT: Let's do this. Given your technical
11 difficulties, Mr. Sullivan, really we can't go on this way
12 anymore.

13 The parties will have the opportunity to submit one
14 final -- if you want to call it a closing statement or
15 argument, where you put together both the law and the facts
16 that you believe have been established through this hearing.
17 I don't want to have oral argument. That would be torturous
18 for everybody, because, Mr. Sullivan, your video connection is
19 awful. It would be easier, it wouldn't disadvantage you, but
20 you will have your say.

21 Why don't the parties in two weeks submit any kind
22 of final argument or proposed findings of fact, if you want to
23 do it that way; and I will then rule after I get the benefit
24 of both sides' final briefing on this, in the vein of a
25 summation, if you will, but let's do that in writing.

1 So two weeks from now is the 19th of October. So
2 how about you have your submission filed by then. You can put
3 it in letter form or brief form. I'm indifferent on this.

4 MR. PAWAR: Judge, may I be excused?

5 THE COURT: Yes, Mr. Pawar. You are excused. Thank
6 you very much.

7 MR. PAWAR: Thank you.

8 THE COURT: Okay. All right. I have to go because,
9 as it is now, I'm already late for this other appointment. So
10 let me go, and, if there are any other questions, submit
11 something in writing.

12 MR. SUNDARAN: Thank you, Your Honor.

13 THE COURT: Thank you, everyone.

14 MR. SULLIVAN: All right.

15 (Proceedings concluded.)

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17 --oo0oo--

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23 I (we) certify that the foregoing is a correct transcript
24 from the record of proceedings in the above-entitled matter.

25

/s/ David R. Roy
DAVID R. ROY

October 13, 2020
Date

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W I T N E S S E S

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